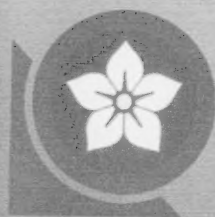


ANNUAL REPORT

2011/12



ombudsperson

B.C.'s Independent Voice For Fairness

ANNUAL REPORT

2011/12



Ombudsperson

B.C. & Yukon

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Ombudsperson
B.C.'s Independent Voice For Fairness

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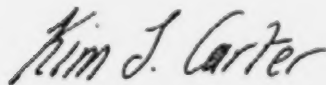
The Honourable Bill Barisoff
Speaker of the Legislative Assembly
Parliament Buildings, Room 207
Victoria BC V8V 1X4

Dear Mr. Speaker:

It is my pleasure to present the Office of the Ombudsperson's 2011/12 Annual Report to the Legislative Assembly.

This report covers the period April 1, 2011 to March 31, 2012 and has been prepared in accordance with section 31 (1) of the *Ombudsperson Act*.

Yours sincerely,



Kim S. Carter
Ombudsperson
Province of British Columbia

May 2012

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FROM THE OMBUDSPERSON

As I approach the end of my six year term as Ombudsperson for British Columbia I would like to look back at a series of changes that the Office has made to improve the service it delivers to the people of British Columbia and also look forward to the opportunities and challenges that lie ahead for this office over the next few years.

In 2006 the Office of the Ombudsperson was just coming out of a period of contraction resulting from resource constraints. By the end of 2006 the Office was once again exercising its full jurisdiction over areas such as local government, health authorities and self-regulating professions.

Once the ability to respond to complaints about all the provincial public agencies that fell within our mandate was re-established we started looking at new and better ways to enhance our services and ensure people in British Columbia would be treated fairly and reasonably.

One of the first steps was to create a systemic investigation team which could focus on large issues and complex problems and through in-depth investigations and public reporting assist agencies in improving their processes. The systemic investigation team has produced a number of very valuable reports that have assisted public agencies, the government, other stakeholders and the public to better understand and improve the fairness of processes ranging from the security of lottery prize payouts to drinking water safety.

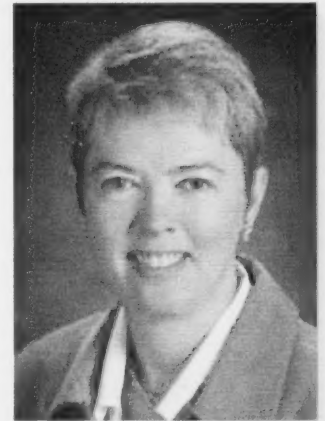
Most recently this year the Office completed the largest and most complex systemic investigation in its over 30 year history. This resulted in a comprehensive report on home and community care – *The Best of Care: Getting it Right for Seniors in British Columbia*. The positive public support for the investigation and the report is unprecedented. I believe it clearly demonstrates the unique role that the Office of the Ombudsperson can play in ensuring that some of the most vulnerable and deserving members of our society are treated fairly.

Our focus has not been limited only to large and complex investigations. At the other end of the spectrum the Office established an Early Resolution Program to more quickly and effectively resolve complaints without the need to do a full, formal investigation. The Early Resolution Program has been warmly welcomed by complainants and authorities and now redirects approximately 15% of the investigative caseload.

Although it is important to look at innovations it is equally important to focus on how we do our core work – dealing with thousands of inquiries and complaints each year. In these areas the Office continues to excel in delivering courteous and useful service. Firstly to the members of the public who come to us for assistance, but equally importantly to public agencies who we assist in improving the fairness of their processes and therefore the effectiveness of their service delivery.

In all these cases there is one critical element that allows a small office to “punch above its weight”, to deliver a major report, an effective referral, or a timely resolution. That critical element is dedicated, passionate, competent and hard-working staff. The quality of the staff, their commitment to fair treatment, and their belief in the work they do is what has always and will continue to make this office a place where people can be confident that there is someone who cares, who will listen, and who will work to ensure that they receive fair treatment from public authorities.

FROM THE OMBUDSPERSON



It is that firm foundation that will allow the Office to benefit from the opportunities and overcome the challenges that lie ahead. Those opportunities include a greater emphasis on outreach – not simply outreach to communities or groups who do not realize they can come to this office for assistance but outreach that will contribute to “Preventative Ombudsmanship”. Preventative ombudsmanship is the concept of effectively sharing the lessons learned from our work and our successes with public agencies and other stakeholders to improve the design and operation of policies, processes and practices to avoid unfairness rather than waiting to have to resolve an unfairness that has occurred.

Another opportunity that lies ahead is building an understanding of the role of the Office of the Ombudsperson in supporting participative democracy. An individual who comes to the Office of the Ombudsperson with a problem that we can resolve not only improves their own situation but also helps to make sure that other people do not suffer the same unfairness. They participate very directly in improving our governing processes – our democratic system.

There are of course challenges ahead. In a world that is focussed more and more on technology and instant communication it can be difficult to ensure that groups who have less capacity to use new tools and systems still have access to the services they need, to ensure that the programs designed to assist them are ones that are accessible to them. That too will be an area where the Office of the Ombudsperson will have a role to play.

In conclusion I would like to say that I have had an interesting and exciting term as Ombudsperson. The six years have gone incredibly quickly and have been full of positive change. It has truly been an honour and a pleasure to serve the people of British Columbia as Ombudsperson. I hope that I have met the challenge that all of us face which is to leave our organizations a little stronger, a little better than we found them. If that is the case, then the credit is due to the amazing support of the people who work in the Office of the Ombudsperson of British Columbia and who come into work every day committed to making British Columbia a better place to live.

Thank you.



Kim Carter
Ombudsperson

Province of British Columbia



By the Numbers

- 8,014 inquiries and complaints about 271 different public authorities
- 2,964 requests for information
- 3,359 matters dealt with by complaints analysts
- 1,550 investigative files completed
- 256 early resolution files completed
- 147 files awaiting assignment on March 31, 2012

In Review

The number of inquiries and complaints we received in 2011/12 rose again to slightly over 8,000. This is a 6% increase over last year and a 23% increase since 2006. Ombudsperson officers closed 1,658 files and early resolution officers closed 256.

The percentage of files opened by major authority category remained very similar to 2010/11 numbers.

| Authority | Files Opened 2011/12 (2010/11) | Files Closed 2011/12 (2010/11) |
|---------------------------------|-----------------------------------|-----------------------------------|
| Ministries | 54% (56%) | 52% (55%) |
| Commissions and Boards | 15% (15%) | 14% (15%) |
| Crown Corporations | 12% (10%) | 10% (10%) |
| Local Government | 7% (7%) | 7% (7%) |
| Health Authorities | 7% (6%) | 11% (7%) |
| Professional Associations | 3% (3%) | 3% (2%) |
| Schools and Boards of Education | 1% (1%) | 1% (1%) |

Timeliness is an important factor in the ability to resolve disputes. In 2011/12, with the inclusion of our early resolution files, 69% of investigative files were able to be closed within three months and 86% within six months of the time they were assigned.

In February 2012 our Systemic Investigation Team delivered *The Best of Care (Part 2)* to the Legislative Assembly. This 448 page report was a detailed investigation into home and community care programs delivered to seniors in British Columbia. It covered not only general home and community care issues but also home support, assisted living and residential care. It focussed on themes of:

- More useful and accessible information
- Assistance navigating the system
- Supporting those who deliver care
- Clear, objective, enforceable standards of care
- Straight forward and responsive complaints processes
- Renewed commitment focussing on needs of seniors, listening to their concerns and respecting their choices

It made a total of 143 findings and 176 recommendations for remediation or improvement.





Tracy-Anne McPhee, Yukon Ombudsman/Information and Privacy Commissioner with B.C. Ombudsperson Kim Carter

Your keynote set both the bar and the tone for what was an intellectually stimulating and engaging learning opportunity. I returned to Seattle overflowing with new ideas.

University Ombudsman,
University of Washington

In response to the Ombudsperson's opening address before the Forum of Canadian Ombudsman



A presentation to the Senior Civil Servants from India – Human Resources Study Group, Victoria



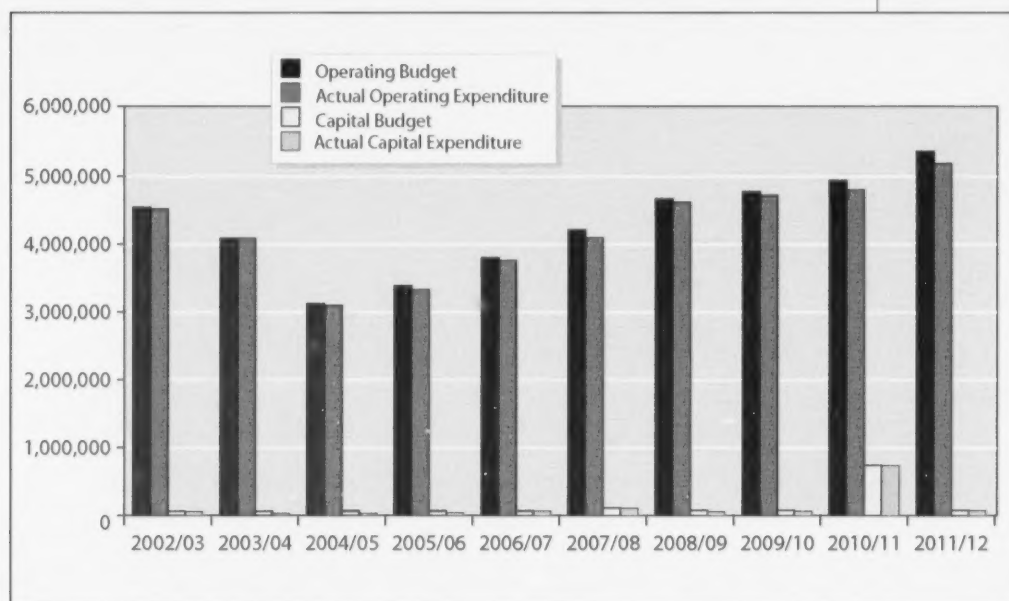
Speaking to the Rotary Club of Victoria



A Korean delegation visits the Office of the Ombudsperson, Victoria

Budget Summary

THE YEAR IN REVIEW



| | 2002/03 | 2003/04 | 2004/05 | 2005/06 | 2006/07 | 2007/08 | 2008/09 | 2009/10 | 2010/11 | 2011/12 |
|------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| Operating Budget | 4,548,000 | 4,086,000 | 3,118,000 | 3,388,000 | 3,805,000 | 4,214,000 | 4,671,000 | 4,773,000 | 4,945,000 | 5,372,000 |
| Actual Operating Expenditure | 4,516,000 | 4,086,000 | 3,093,000 | 3,326,000 | 3,761,000 | 4,100,000 | 4,624,535 | 4,721,577 | 4,803,266 | 5,189,800 |
| Capital Budget | 59,000 | 62,000 | 65,000 | 65,000 | 65,000 | 110,000 | 75,000 | 75,000 | 741,000 | 75,000 |
| Actual Capital Expenditure | 58,000 | 27,000 | 30,500 | 35,800 | 63,000 | 108,000 | 53,124 | 67,117 | 737,709 | 70,237 |
| FTEs | 50 | 38 | 30 | 34 | 37 | 40 | 45 | 46 | 33 (+13) | 33 (+13) |

FTEs: Shared services are identified in parentheses. The shared services FTEs are dedicated to delivering finance, administration and IT support services to four Offices of the Legislature: Office of the Ombudsperson, Office of the Information and Privacy Commissioner, Office of the Police Complaint Commissioner, and Office of the Merit Commissioner.

Note: The capital budget and actual capital expenditure for 2010/11 included a one-time cost to undertake tenant improvements on a building for which the four offices identified above have a 15-year lease.



I want to thank you and your staff for taking the time to meet with us last week. We found the visit most worthwhile and came away with a good understanding of the priorities of your office, in particular, the emphasis on disclosure to the public. While there is always a balance between that goal and privacy and fairness considerations, we strive for the greatest transparency possible which in turn helps protect the public.

Chief Legal Officer
Law Society
of British Columbia

Outreach

One of the most important activities in our office is outreach to the people, communities and authorities who can benefit from the resolutions the Office provides. Below is a representative list of the outreach activities our office undertook in 2011/12.

Outreach Tours

Northwest tour – Smithers, Houston, Burns Lake, Vanderhoof, Fort St. James

Outreach to Non-profit Groups and Other Organizations

Aboriginal Children and Families Chief's Coalition

BC Health Coalition

Burns Lake Chamber of Commerce

Canadian Council of Parliamentary Ombudsman

Community Care and Assisted Living Appeal Board

Community Care Facilities Licensing Officers of BC

Elder College Chilliwack

Haro Park Centre

Houston Community Services Association

Human Resources Study Tour – Senior Civil Servants from India

Jewish Seniors Alliance of Greater Vancouver

Lake District Community Services Society

Law Centre (University of Victoria)

Legislative Interns

Local Government Management Association

Nechako Valley Community Services Society

Rotary Club of Saanich

Rotary Club of Victoria

Seniors Expo

Smithers Community Services Association

Union of BC Municipalities

Uplands Probus Club

Vancouver Cross Cultural Seniors Network

West End Community Planning Table

White Rock / Surrey Come Share Society

World Elder Abuse Awareness Day

Outreach to Authorities

Bulkley-Nechako Regional District

District of Fort St. James

District of Houston

District of Vanderhoof

Forensic Psychiatric Hospital

Ministry of Community, Sport and Cultural Development

Northwest Community College

School District #54

Simon Fraser University

Town of Smithers

Village of Burns Lake

Outreach to other Ombudsperson Organizations and Groups

Host, the Canadian Council of Parliamentary Ombudsman (Victoria)

Bi-Annual Meeting Forum of Canadian Ombudsmen (Vancouver)

IPAC – Senior Civil Servants from India

Korean delegation of Public Administrators

New Zealand Ombuds Office



On behalf of all of us at Haro Park Centre and our community partners, I want to thank you for your presentation on the Best of Care: Getting It Right for Seniors in British Columbia. As you could tell by the enthusiastic questions, we have a dedicated group who believe passionately in care for seniors. Your report will guide us in making changes so that we can be as our vision states "a leader in enhancing the lives of elders and staff". Thank you also for appreciating the work that we do as professional caregivers. That means a lot to all of us.

Sincerely
Catherine Rohm
Executive Director

THE YEAR IN REVIEW

Outreach

The Ombudsperson gave us an excellent review of the history and role of her office and how she and her staff approach the variety of problems that land on her desk. There is much support for an organization that provides some recourse to citizens caught in the grinding of the bureaucratic mill. Please pass on to her our thanks and good wishes.

Jim Cutt
Rotary Club of Victoria





Our Goals

- *Ensure Administrative Fairness*
- *Provide Quality Service*
- *Enhance Understanding of the Principles of Good Governance*
- *Support a Workplace of Excellence*

THE OFFICE OF THE OMBUDSPERSON

Our Vision

British Columbia's Independent Voice for Fairness

Our Mandate

- To ensure that every person in British Columbia is treated fairly in the provision of public services
- To promote and foster fairness in public administration in British Columbia
- To uphold the democratic principles of openness, transparency and accountability

Who We Serve

- The people of British Columbia
- The Legislature
- The principles of administrative fairness

What We Do

- Respond to inquiries from the public
- Provide information, advice and assistance on issues of administrative fairness
- Conduct thorough, impartial and independent investigations of complaints
- Look for fair resolutions and make recommendations to improve administrative practices
- Independently initiate investigations of apparent administrative unfairness
- Provide reports to the Legislative Assembly and the people of British Columbia about the work of the office and remedying unfair administrative practices
- Generally oversee the administrative actions of public agencies to enhance transparency and accountability

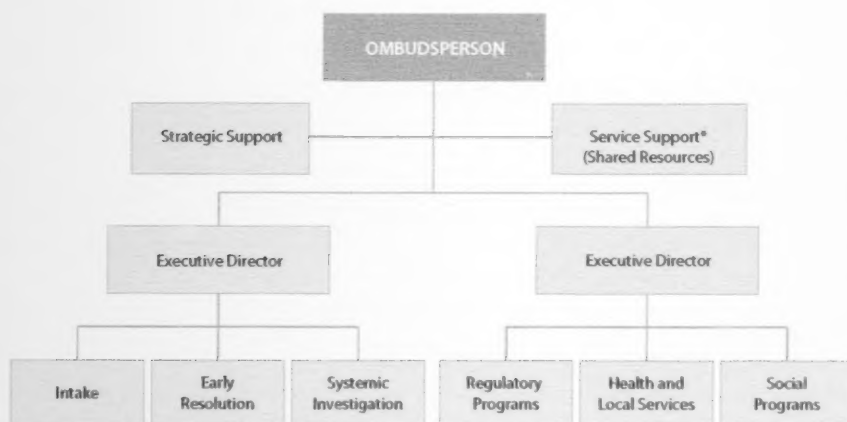
Our Guiding Principles

- Integrity
- Respect
- High Quality Service
- Equality
- Continuous Improvement
- Leadership
- Teamwork
- Trusting Environment

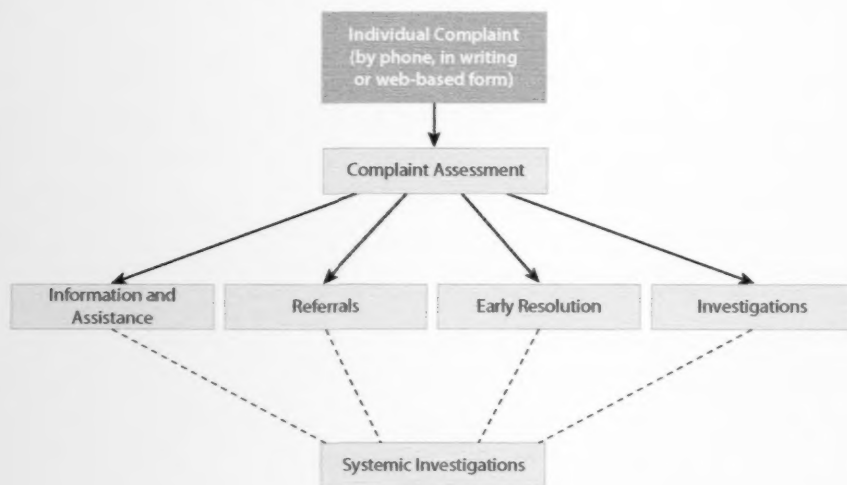
Who We Are

The Ombudsperson is appointed for a six year term by the Legislative Assembly. Ombudsperson officers who investigate complaints and conduct systemic investigations come from a wide variety of professional backgrounds including law, engineering, and public administration.

*Service Support is a shared resource that provides support to four independent Officers of the Legislature.



How We Assist – Our Process



What is Administrative Unfairness?

Administrative fairness encompasses well-recognized principles of procedural fairness and good administrative practices. These include adequate and appropriate legal authority; functional organization and management structure; necessary and useful policies and procedures; clear and accessible public information; timely access to programs; consistent standards of practice; adequate and appropriate monitoring and enforcement; timely and appropriate complaint resolution and program evaluation.

The inquiries and complaints we receive are analyzed and contribute to our decisions on where we can most usefully conduct a systemic investigation.

What We Can Investigate

Complaints of unfair actions and decisions by:

- Provincial ministries
- Provincial boards and commissions
- Provincial Crown corporations
- Local governments
- Health authorities
- School boards
- Colleges and universities
- Other provincial public authorities including self-regulating professions and pension boards of trustees.

A full list of authorities can be found in the Schedule of the *Ombudsperson Act*.



What Findings We Can Make

An action/decision/recommendation/omission is:

- Contrary to law
- Unjust, oppressive, improperly discriminatory
- Done pursuant to an unjust, oppressive, or improperly discriminatory law, regulation, direction, guideline or policy
- Based on a mistake of law or fact
- Based on irrelevant considerations
- Based on arbitrary, unreasonable, or unfair procedures
- Done for an improper purpose
- Not explained with adequate and appropriate reasons
- Negligent
- Improper
- Otherwise wrong

What Recommendations We Can Make

- To refer a matter for further consideration
- An act be remedied
- A decision or recommendation be cancelled or changed
- Reasons be given
- A practice, procedure or course of conduct be altered
- An enactment or other rule of law be reconsidered
- Any other step be taken

Our Approach

- Independent
- Impartial
- Consultative
- Resolution oriented



SYSTEMIC INVESTIGATIONS

SYSTEMIC INVESTIGATIONS

Overview

In addition to investigating complaints, the Ombudsperson has authority to initiate investigations. The Ombudsperson uses this authority to consider issues from a broad systemic perspective. A systemic investigation is an investigation initiated by the Ombudsperson that is likely to result in findings and recommendations and a published Ombudsperson report.

In 2007, the Ombudsperson created a small systemic investigation team. The team is comprised of a manager and two investigator positions and is supported by students and the information, outreach and communications officer. The systemic investigation team reports to the executive director of intake and systemic investigations.

The Office of the Ombudsperson releases two types of investigation reports: public and special. A public report is issued in accordance with section 25 of the *Ombudsperson Act*. It contains recommendations that have not been accepted to the satisfaction of the Ombudsperson. A special report is issued in accordance with section 31 of the *Ombudsperson Act*. It contains recommendations that have all been accepted, and it is released if the Ombudsperson considers the release to be in the public interest.

Since its creation in 2007, the systemic investigation team has completed seven major systemic investigations and has made hundreds of recommendations aimed at improving administrative processes and ensuring that a broad range of people in British Columbia are treated fairly. The systemic investigation team monitors the implementation of recommendations made and includes status updates in the Ombudsperson's annual reports and on the Office's website. As a result of its work, the B.C. Ombudsperson systemic team has built a reputation as a leader in conducting systemic investigations by a small team and has developed a training program on systemic investigations for small offices.



Systemic Investigations Completed in 2011/12

Public Report No. 47 – The Best of Care: Getting It Right for Seniors in British Columbia (Part 2)

On February 14, the Ombudsperson released Public Report No. 47 *The Best of Care: Getting It Right for Seniors in British Columbia (Part 2)*. The 400 plus page report is the Ombudsperson's final report on the Office's three year investigation into the care of seniors in British Columbia. It is a comprehensive and in depth report that makes 143 findings and 176 recommendations. The recommendations are designed to improve home and community care, home support, assisted living and residential care services for seniors.

During the investigation, the Ombudsperson found that the Ministry of Health did not make sure that seniors and their families have access to adequate assistance and support to navigate the complex home and community care system; has not



analyzed whether the home support program is meeting its goal of assisting seniors to live in their own homes as long as it is practical; and that it is ineffective and inadequate for the Ministry of Health to rely on responding to complaints and serious incident reports as its main form of oversight for assisted living. The Ombudsperson also found that the Ministry of Health's decision to maintain two separate legislative frameworks for residential care has resulted in unfair differences in the care and services seniors receive and the fees they pay.

The report makes specific recommendations to the Ministry of Health and the five regional health authorities including in the following areas:

- Providing clear information to seniors and their families; tracking key home and community care data and reporting it publicly in an annual home and community care report
- Supporting seniors and families in navigating the home and community care system
- Protecting seniors through consistent reporting and tracking of abuse and neglect
- Protecting those who complain in good faith about home and community care services from any adverse consequences for doing so
- Assisting seniors to continue to live at home by assessing the adequacy of current home support programs and analyzing the benefits and costs of expansion
- Ensuring objective and enforceable standards of care for home support services
- Ensuring fair and equal treatment by immediately making certain that no seniors in assisted living are charged for services and benefits that are included in the assessed client rate
- Establishing an active inspection, monitoring and enforcement program in assisted living residences
- Ensuring equal treatment, benefits and protection of seniors in residential care by establishing one legislative framework that applies to all residential care facilities
- Ensuring fair treatment by not charging fees to seniors involuntarily detained in residential care under the *Mental Health Act*
- Ensuring objective and enforceable standards of care for seniors in residential care
- Enhancing dementia and end-of-life care services in residential care

While the health authorities have responded to some of the recommendations in the report, the majority of the Ombudsperson's recommendations are currently being considered by the Ministry of Health. The Ombudsperson will monitor progress that is made on accepting and implementing the recommendations and report the results through the Office's website and subsequent annual reports.

The public interest since releasing the report has been unprecedented. After releasing the report on February 14, media from every part of the province covered the many findings and recommendations in the report. In addition, the Ombudsperson has received more than 25 requests from organizations and interested groups to speak about the report, and numerous letters from across the province indicating support for the report. Interest in reading the report has been significant with a second reprint already placed.

Public Report No. 48 – On Short Notice: An Investigation of Vancouver Island Health Authority's Process for Closing Cowichan Lodge

On February 14, the Ombudsperson released Public Report No. 48 *On Short Notice: An Investigation of Vancouver Island Health Authority's Process for Closing Cowichan Lodge*. The report was the result of 46 complaints from people in the Cowichan area who were concerned about and directly affected by Vancouver Island Health Authority's (VIHA) announced closure of a long established seniors' residential care facility in Duncan.

The investigation focused on the following issues:

- Informing residents and family members of the decision to close Cowichan Lodge
- Notifying staff of the decision to close Cowichan Lodge
- The process followed in requesting and granting an exemption to the 12 month notice requirement

The Ombudsperson made six findings and six recommendations.

Key recommendations include:

- Developing a publicly available policy that sets out the process to follow when closing a facility (Recommendation 1)
- Considering all relevant factors including employment opportunities and recruitment needs at other facilities that residents might transfer to and where staff might wish to apply when determining a schedule to announce a facility's closure (Recommendation 2)
- Fulfilling the legal obligation to provide 12 month's notice or seek an exemption to regulatory notice periods when planning a facility closure (Recommendation 3(b))
- Establishing a process to ensure an alternate decision maker, not directly affiliated with VIHA, considers VIHA's request for exemption to the 12 month notice requirement (Recommendation 3(c))

VIHA accepted and agreed to implement five of the six recommendations. VIHA indicated it could not accept recommendation 3(c) as it believes it is statutorily bound to refer requests for exemption to the 12 month notice of closure of a residential care facility to VIHA medical health officers.

Special Report No. 33 – Honouring Commitments: An Investigation of Fraser Health Authority's Transfer of Seniors from Temporarily Funded Residential Care Beds

On February 14, the Ombudsperson released Special Report No. 33 *Honouring Commitments: An Investigation of Fraser Health Authority's Transfer of Seniors from Temporarily Funded Residential Care Beds*. This investigation was the result of complaints received by the Ombudsperson after the Fraser Health Authority (FHA) reversed an earlier written commitment made to seniors at a residential care facility in Surrey.

People complained to the Ombudsperson about the actions taken by FHA beginning in 2008, when FHA made a written commitment to seniors in temporarily funded beds in a residential care facility in Surrey that they would not have to move from that facility. FHA later went back on its commitment and told seniors still living

A huge thank you from SOS Comox Valley, for the Ombudsperson's second Report on Seniors' Care in B.C. It is thorough, detailed and far reaching. We are re-assured to see that your office has tackled many of the difficulties our members have encountered with their loved ones in assisted living or residential care. We now hope that the Ministry of Health will step up to the plate and follow your recommendations.

Jennifer Pass
Chair, SOS Comox Valley

We want to express our greatest thank you for all your hard work, dedication and insight into this project. The staff has demonstrated skill, compassion, courage and leadership and the work serves as a guideline for all of us who want a better world of care for the elders in our families and communities! You are incredible role models for advocates across the province.

Dusty Tucker
Co chair Pleasant Valley
Family Council

in that facility that the health authority could no longer fund the beds and that they would have to move within a month and a half.

The issues investigated included:

- Whether the decision to move residents was fair and reasonable given the earlier commitment
- Whether the notice provided to residents and families was adequate
- Whether FHA considered the risks to the health and safety of seniors being moved
- Whether the planning processes followed by FHA were sufficient
- Whether FHA required compliance with regulatory notice requirements

The Ombudsperson found that the FHA acted unfairly in deciding to move the residents out of temporarily funded beds in light of its prior written commitment. The investigation resulted in seven findings and nine recommendations.

Key recommendations to FHA included:

- Apologize to residents and families at Newton Regency affected by its decision (Recommendation 1.1)
- Provide at least 60 days' notice to residents and families of decisions to cease funding beds (Recommendation 2.1)
- Inform people whether an offered placement is temporary or permanent and explain the difference between them (Recommendation 2.2)
- When planning to transfer seniors, ensure sufficient flexibility to take individual circumstances into account and to minimize adverse effects (Recommendation 3)
- Take action to ensure operators are in compliance with the requirement to provide notice of a decision to close or substantially change a residential care facility (Recommendation 5.1)

Fraser Health Authority agreed to implement all of the recommendations.

Systemic Investigations Completed in 2009/10

Implementations of Recommendations in Public Report No. 46: The Best of Care: Getting it Right for Seniors in British Columbia (Part 1)

In December 2009, the Ombudsperson issued *The Best of Care: Getting it Right for Seniors in British Columbia (Part 1)*, the first of two reports on the Ombudsperson's systemic investigation into the care of seniors in British Columbia. The first report included ten recommendations made to the then Ministry of Health Services and Ministry of Healthy Living and Sport in the following areas: rights for seniors in residential care; access to information about residential care; and the role of resident and family councils. The ministries fully accepted four of the recommendations and these were implemented prior to the 2011/12 fiscal year.

The ministries indicated their acceptance of the intent of the other six recommendations – R1(c), R1(d), R2(a), R3(a), R3(c) and R3(d). Since our 2010/11 annual report, the Ministry of Health has made progress toward meeting these recommendations, summarized as follows:

- The Ministry of Health is tracking compliance with the Residents' Bill of Rights and intends to report on compliance by posting a summary on the Community Care Facilities Licensing website in September 2012 (Recommendation 1(d))
- The Ministry of Health intends to improve the SeniorsBC website, by September 2012, to improve access and navigation and include more information regarding care and support options, how to access health care services, eligibility criteria for publicly subsidized services, wait times, urgency criteria, patient charges and hardship waivers. An updated BC Seniors' Guide will be published by December 2012 (Recommendation 2(a))
- The Ministry of Health requires health authorities to report twice annually on the status of active resident and family councils in each facility in its region, as part of its Provincial Performance Management Framework for Residential Care Facilities (Recommendation 3(c))
- The Ministry of Health implemented a policy that makes the health authorities responsible for encouraging and providing opportunities for resident and family councils to participate in regional education and networking opportunities (Recommendation 3(d))

Implementations of Recommendations in Public Report No. 45: Last Resort: Improving Fairness and Accountability in British Columbia's Income Assistance Program

In March 2009, our office issued *Last Resort: Improving Fairness and Accountability in British Columbia's Income Assistance Program*. This report included 28 recommendations to what was the Ministry of Housing and Social Development, with timelines for implementation. The ministry accepted and agreed to implement all the recommendations, except Recommendation 23, which proposed that the ministry compensate people adversely affected by the ministry's delay in initiating a regulatory amendment.

Our recommendations addressed four areas: applying for income assistance, persons with persistent multiple barriers to employment (PPMB), medical and other documentation requirements, and implementation of previous commitments.

Since our 2010/11 annual report, the Ministry of Social Development has made progress toward meeting the recommendations, as follows:

- The ministry provided training to all front-line staff, in anticipation of system upgrades. Training specific to the immediate needs assessment was provided to staff in the intake portion of the training.
- Policy changes are in the process of being implemented following the review of circumstances where applicants and clients must sign forms in person. The policies will be available publicly once implemented (Recommendation 21(A))

We continue to be disappointed that the ministry has not yet implemented the six recommendations it accepted regarding the PPMB program (Recommendations 12, 13, 14, 15, 16(A) and 16(B)). The ministry, more than three years after accepting the recommendations, reports that it continues to review the PPMB program as a whole.



Systemic Investigation Completed in 2008/09

Implementations of Recommendations in Special Report No. 32: Fit to Drink: Challenges in Providing Safe Drinking Water in British Columbia

In June 2008, our office issued *Fit to Drink: Challenges in Providing Safe Drinking Water in British Columbia*. This systemic investigation included 39 recommendations made to the five regional health authorities, the Ministry of Environment, the Office of the Provincial Health Officer, and the Ministry of Health. The authorities accepted and agreed to implement all of the recommendations.

The recommendations addressed the following areas: dealing with questions, concerns and complaints; public advisories and notices; monitoring and enforcement; issues affecting small systems; and drinking water management initiatives.

Since our 2010/11 annual report, the authorities have made progress toward meeting the recommendations, summarized as follows:

- All the regional health authorities have a system in place for electronically tracking complaints made under section 29 of the *Drinking Water Protection Act* (Recommendation 4)
- The Ministry of Health has established and implemented a province-wide standard for issuing turbidity advisories (Recommendation 10)
- The Provincial Health Officer published an article regarding drinking water and immune compromised patients in the October 2011 BC Medical Journal, which is delivered to all physicians in the province (Recommendation 14)
- The Fraser and Vancouver Coastal health authorities both reported reductions of 35% or more in the number of systems on advisory in 2011/12. During 2011/12, the Northern Health Authority removed six long term advisories which had been in place over 18 months. The Interior Health Authority has been implementing a boil water remediation program to reduce the number of long-term boil water notices. The Vancouver Island Health Authority has implemented a work plan to address long term advisories, targeting those with the greatest population first (Recommendation 16)
- The Ministry of Health has developed a province-wide policy on Surface Water Treatment Objectives to ensure health authorities approach treatment requirements in the same way. The ministry expects to finalize this policy in 2012 (Recommendation 20)
- The Northern, Vancouver Coastal and Vancouver Island health authorities have taken steps towards monitoring, tracking and enforcing the requirement for water suppliers to provide annual reports to their customers (Recommendation 21)
- The Vancouver Coastal Health Authority has increased the number of communities for which it is posting sampling results (Recommendation 22)
- The Vancouver Coastal Health Authority is retaining copies of emergency response plans and treating systems without plans as non-compliant. The Northern Health Authority has completed an updated emergency response plan template for small water systems and has been tracking all systems' compliance with the requirement to have an emergency response plan (Recommendation 25)

- The Inter-Ministry Small Water Systems Committee, led by the Ministry of Health, has developed a paper defining the issues related to small water systems and briefed deputy ministers to seek support in addressing these issues (Recommendations 31 and 33)





We have changed the names of the people in all our case summaries to protect their confidentiality. In most cases we have identified the complaint as originating from one of four broad regions; the Lower Mainland, which includes Greater Vancouver, the Fraser Valley as far as Hope and the Squamish areas; Vancouver Island/ Sunshine Coast which also includes the Gulf Islands; Northern B.C. which includes Prince George and everything north of it; and the Interior, which includes everything south of Prince George except for the Lower Mainland.

CASE SUMMARIES

Overview

People who are unfamiliar with the Office of the Ombudsperson often ask what we do, who complains to us and what they complain to us about. The following section will answer these questions. While we conduct our investigations confidentially, by sharing our work we are educating the public about how we serve them and also promoting greater understanding of administrative fairness.

The following pages illustrate some of the individual cases we dealt with in 2011/12. In selecting these cases we tried to show the diversity of work done by our early resolution and ombudsperson officers as well as provide people with an understanding of what fair administrative practice requires public authorities to do. These cases are only a fraction of those we investigated during the year, but they demonstrate the breadth of the issues we deal with, most of which are issues very close to a person's well-being, their health, livelihood and home.

Sometimes, we are the place of "last resort" for people desperate for help. This year, for example, through one of our investigations, we brought much needed piece of mind to a family faced with severe, life-long responsibilities who was desperately looking for continuity of care for their soon-to-be adult daughter whose care would be moving from the Ministry of Children and Family Development to Community Living BC (CLBC). Now that she was turning 19 her care and support would be funded through CLBC, which could have meant major upheaval for the daughter. In other instances, our investigations result in policy changes that have the power to help many people, not just one complainant. Such was the case with one mother who came to us because she was unhappy with the Family Maintenance Enforcement Program's (FMEP) responses to her concerns about enforcement of a support order. Our investigation of the complaint led to changes in FMEP's policy and standard letters with respect to enforcement of child support for children over the age of 19. Finally, through these pages, you will read about a couple's efforts at reopening a public road access to a trail system. They came to us as a result of a delay that not only impacted them, but the greater community as well. The ministry has now completed the work and the road allowance was reopened to the appreciation of many in the community.

It is our belief that people who bring forward their complaints are doing a service, not only to themselves, but to those who come after them and in many instances to the agency they are dealing with. When a process is fixed or improved as a result of a complaint, the system works more smoothly for those who use it and those who run it. Equally important, as you will see in the case summaries that follow, is that we find authorities have acted fairly and reasonably. This aspect of our work is just as crucial as the investigations that result in changes in policy or practices. It can act as a reassurance to both the complainant and the public authority when an independent and impartial third party thoroughly reviews a matter and concludes that an unfairness has occurred. Our role is to be advocates not for one side over another, but to advocate for administrative fairness for everyone.



Early Resolution Case Summaries

Why the delay?

WORKERS' COMPENSATION BOARD (WorkSafeBC)

The North

Ted contacted us in the middle of December because he was worried that there was a delay in implementing a Worker's Compensation Appeal Tribunal (WCAT) decision dated November 26, 2011. Ted told us that the WCAT decision instructed WorkSafeBC to reopen his wage rate claim effective January 5, 2010. Ted wanted to know when he would receive a cheque.

We contacted WorkSafeBC and explained that Ted was concerned that he had not received a cheque. In response to our call, Workers' Compensation Board (WCB) told us that a decision needed to be made on the end date of his wage loss. A few days later, WCB said that a decision had been made and that Ted was eligible for wage loss from January 5 to June 14, 2010. WCB said Ted would be receiving a cheque for \$6,935 and that it would be processed as an electronic transfer on December 19. WorkSafeBC advised that the cheque should be deposited into Ted's bank account around December 23.

Ted confirmed that WorkSafeBC called him and provided him with information regarding his cheque. Ted said he was very appreciative of our assistance and was happy that he would receive some money before Christmas.

Billed for ambulance service

EMERGENCY AND HEALTH SERVICES COMMISSION

The Lower Mainland

Ann contacted us in January because she was concerned about the validity of an ambulance bill that dated back to 2007. Ann said she had dealt with this about two years ago and thought it had been resolved.

Ann said when she tried to deal with this before she was told the ambulance bill would be waived because she is on premium assistance. Ann says that Revenue Services BC (RSBC) is still trying to collect on the bill. Ann said that she is on a fixed income, has health issues and that it is very frustrating that this had not been resolved. We suggested to Ann that facilitating contact with a supervisor might help her in resolving her concerns. She agreed.

We contacted the Emergency Health Services Commission (EHSC) and explained that we were attempting to facilitate contact between Ann and a supervisor. In response to our call EHSC made contact with Ann a few minutes after speaking with us and told her that because she was on premium assistance EHSC have withdrawn her account from collections. EHSC explained that it takes a bit of time for the system to generate the request but that they followed up with a phone call to RSBC to advise them that the account has been withdrawn from collection. Since a supervisor made contact with Ann, we closed our file.



When we were able to reach him, Wes confirmed that "everything had been cleared up" and that he "should have called the Office a year ago".

CASE SUMMARIES

Early Resolution

In late July you helped me obtain good homecare services for my mother. Shortly after we switched caregiving agencies, my mother's health began to improve. Three months later the change in her condition is astounding. The caregivers are very responsible and no longer require my involvement, supervision or help so I am getting my own life back. You can imagine what a change in our lives your intervention has produced.

From a thank you letter sent to us in 2011/2012

Senior caring for senior needs help

VANCOUVER ISLAND HEALTH AUTHORITY

Vancouver Island/Sunshine Coast

Lorna called us for help. She looks after her 91 year old mother, Jackie who lives in the lower half of her duplex. She pays for Jackie's live-in care giver. When the caregiver is away, the health authority, through a contractor, provides caregivers for weekday afternoons and the two weekend days.

The complaint was about repeated changes in staff and the "unprofessional and unacceptable care" provided by the contractor. She also said calls to health authority staff and to the contractor were not returned and her letters had not been answered.

Lorna had met with the case manager from the health authority. One of her concerns was a fall resulting from a new care aide not understanding her mother's needs and then making a poor judgment. Lorna asked that her mother's care be outsourced to another care provider. The health authority had not responded. The case manager said she would ask the manager of home and community care to contact Lorna. The manager was to call Monday morning but did not. Lorna called her case manager again the next day and was told she would ask the manager to call that day. Lorna was anxious about the delay because she needed care in place by the next week. Also, Lorna said she would be 70 next year and she was tired of training new people who were then moved elsewhere.

We contacted the manager of home health at VIHA. She said she had been working on Lorna's request to use an alternate care agency but understood Lorna would not know that. She later called Lorna and apologized for the communication problems. Subsequently, a new care provider was arranged and Lorna told us that the new care arrangement had gone well. Three months later, a thank you note arrived from Lorna.

Whatever it takes – Early resolution by fax

MINISTRY OF SOCIAL DEVELOPMENT

Vancouver Island/Sunshine Coast

Geoff contacted our office by fax because of his impaired hearing. His complaint was that the Ministry of Social Development had not approved a request from a foot clinic for the bandages he needed. Geoff dealt with multiple health concerns requiring regular dialysis and other treatments.

The foot clinic, where he was a patient, sent in requests to the ministry. After the ministry approved funding, Geoff could pick up dressings and ointment from the Diabetes Association. He was running low again and was wearing the same bandages for several days. It had been nearly three weeks since the request had been made and the Diabetes Association had heard nothing from the ministry.

We contacted a ministry supervisor and within a day, the purchase authorization had been faxed to the Diabetes Clinic, to Geoff and to our office. Our closing letter was faxed, as well as mailed to Geoff. Even though we could not speak directly to Geoff, we were able to resolve his complaint.

Getting through

HEALTH INSURANCE BC – PHARMACARE, MINISTRY OF HEALTH

The Interior

Wes, a truck driver, called because he was unable to get a replacement prosthetic leg for a partially amputated leg. He had tried to resolve this matter for nearly a year with PharmaCare with no success.

His therapist was told he was not registered with PharmaCare. Wes said he was registered; he submitted his tax returns each year and received PharmaCare subsidy on his medicine. PharmaCare had covered the prosthetics since 1983, and also covered the twice-yearly relining of his prosthetic.

Wes again needed a new prosthesis. He called PharmaCare when funding approval was denied. Wes sent in copies of tax returns as requested. PharmaCare said it did not receive them. He did this again, only to be told these were not received either. Wes needed help as he would not be able to drive his logging truck much longer.

We offered to facilitate contact with someone at PharmaCare who might be able to reconcile this conflicting information. Wes said PharmaCare could leave messages at his home number or try his cell, but warned that he works long hours, and that cell reception varies in the mountains. We advised PharmaCare, and the manager committed to calling Wes. The manager left a message on his cell and also contacted the therapist to confirm funding approval for the prosthetic.

When we were able to reach him, Wes confirmed that “everything had been cleared up” and that he “should have called the Office a year ago”.



What's my status? I need to know

OFFICE OF THE SUPERINTENDENT OF MOTOR VEHICLES

The North

Jack contacted our office in December because his B.C. driver's licence had been cancelled. Jack said he was informed by ICBC that they had been directed by the Office of the Superintendent of Motor Vehicles (OSMV) to cancel his driver's licence because he had not undergone a medical exam to verify that he is fit to drive. Jack said the information was perplexing, as he had undergone a medical exam earlier in the year and the results that showed he was fit to drive had been submitted to the OSMV.

Jack put in a complaint with the OSMV, but was concerned about the amount of time it was taking to clear the matter up. The busy holiday season was approaching, so Jack was hoping to sort out the issue of his cancelled driver's licence as soon as possible.

We contacted the authority and explained that Jack was unclear why his driver's licence had been cancelled given that he had undergone a medical exam and had been deemed fit to drive. As a result of our call, the authority contacted Jack, explained that his driver's licence had been cancelled in error, and arranged for Jack to be issued a permanent replacement card immediately and at no charge.





OMBUDSPERSON OFFICERS CASE SUMMARIES

Children and Youth

Knowing when it's best to stay put

COMMUNITY LIVING BC

The Lower Mainland

The Dowlings contacted us about their daughter, Melissa, who was so severely developmentally disabled and medically compromised that she required full-time care, including night-time awake care. The Ministry of Children and Family Development provided care for Melissa. However Melissa was turning 19 in a few days and when that happened, her care and support would be funded through Community Living BC (CLBC). The Dowlings said they were concerned about CLBC's plan for Melissa to move home when she turned 19 because they were in the process of sorting out funding with CLBC and the local health authority to ensure adequate supports were in place for Melissa. They said that the supports necessary to ensure Melissa was appropriately cared for were not in place.

At the time the Dowlings contacted us, Melissa lived in a community resource that provided full-time care, including nursing care. She stayed at home with her family a few nights a week. The ministry funded the resource and the overnight awake support that made it possible for Melissa to spend time with her family at home.



When Melissa turned 19, she became dependent on CLBC to fund her support services. The Dowlings had developed a transition plan two years previously with the ministry and the involvement of CLBC and they thought that it would be followed. However, not long before Melissa's birthday they discovered that CLBC was not prepared to fund the plan that had been developed. The family explained that despite the fact that they and CLBC were still talking about how to meet Melissa's needs, they had not reached any agreements about funding. A few days before Melissa's birthday, the Dowlings were told to prepare for her to move home. The Dowlings pointed out that they were still trying to work out an agreement with CLBC as well as the local health authority, and that there were no supports in place to ensure that Melissa's needs would be met. The Dowlings were concerned that Melissa's health and safety would be compromised because proper supports were not in place.

We investigated whether CLBC was following a reasonable procedure for planning and transitioning Melissa to adult services. We looked at whether the plan to move Melissa on her 19th birthday was premature, given her significant medical needs, and that reasonable concerns appeared to have been raised about whether adequate steps had been taken to ensure that the necessary supports to meet those needs were in place. CLBC agreed that Melissa could stay in the community resource while a more considered plan was developed.

During our investigation, the Dowlings concluded it was in Melissa's best interest to stay at her community resource. They said the people who provided for Melissa were like her second family and she would continue, in their view, to have all of her care needs fully met. CLBC agreed to provide funding to allow Melissa to stay in her original community resource with overnight visits home.

We concluded that our original concerns about CLBC's transition planning process and the impact it had on Melissa and her family had been addressed. CLBC took Melissa's needs into consideration in reaching a decision and reasonably concluded that her current community resource was the most appropriate placement to meet her needs.

Improving the system

BURNABY YOUTH CUSTODY SERVICES

The Lower Mainland

Ethan, a youth in custody at Burnaby Youth Custody Services (BYCS), contacted us with a complaint that he had been separately confined for longer than 72 hours. Ethan explained he had completed 72 hours on the separate confinement unit as a consequence for his behaviour. At the end of this time, he was placed on a unit where he had no contact with other youth for another five days.

We investigated whether BYCS followed a reasonable process on the length of time Ethan was in separate confinement. We reviewed the relevant legislation and policy and discussed the complaint with staff at Youth Custody Services (YCS) headquarters in Victoria, who completed an internal review of the separate confinement in response to our investigation.

This review determined that the initial 72 hour period of separate confinement was properly administered. However, Ethan was subsequently placed on "1 to 1 status" which isolated him from contact with other youth for five days. YCS acknowledged that this was inconsistent with the spirit of the *Youth Justice Regulation* and the wording of the ministry's separate confinement policy. To address the concerns appropriately raised by Ethan, YCS made recommendations that were implemented at BYCS:

- "1 to 1 status" is not to be used as an extension of separate confinement. It is to be used for short periods of time when other behaviour management strategies are unsuccessful
- Staff was reminded that residents should not be in separate confinement more than 72 hours without additional authorization
- A non-involved supervisor or manager would review the application of restrictive behaviour management practices and document their review
- Administrative fairness principles would be included in training materials for supervisory positions

While these changes did not affect the situation Ethan had found himself in, his complaint led to appropriate steps to improve procedures for others.

While these changes did not affect the situation Ethan had found himself in, his complaint led to appropriate steps to improve procedures for others.

When your family grows

MINISTRY OF SOCIAL DEVELOPMENT

The Lower Mainland

Rita, who was on disability assistance, contacted our office about the Ministry of Social Development. Several months earlier the courts had granted her full custody of her grandchild. Rita was expecting the child would be added as a dependent to her disability assistance file, a change that would provide several hundred dollars more per month. Rita said she understood that the child's social worker had told the ministry about the court order but the changes had not been made. Rita had not yet applied for the child tax benefit and was having a hard time supporting herself and her grandchild on the disability assistance rate for a single person.

We would like to acknowledge the youth whose complaint brought this important issue to our attention and whose action benefits all young people who are held in custody in British Columbia.

We investigated whether there had been a delay in adding her grandchild to Rita's file. A supervisor confirmed they had received an email from a social worker about the change, but it was not acted on as it appeared that the court custody papers would follow shortly. The request was overlooked when the court papers did not follow as expected. Following our contact, the supervisor confirmed the change and issued an adjustment cheque the same day for the difference in family size to cover the period of delay. Rita was satisfied with this outcome. We also provided Rita with information about applying for child care subsidy and child tax benefit.

Respecting the rights of youth in custody

BURNABY YOUTH CUSTODY SERVICES

The Lower Mainland

Dennis, a youth at Burnaby Youth Custody Services (BYCS) contacted us to complain that he had no privacy during a telephone call to his lawyer. Dennis complained that he had called his lawyer from a telephone on the unit. He said that during the call, a staff person stood about two feet away and refused to move away when Dennis requested privacy. Dennis also said that the telephone was directly across the hallway from the staff office.

We investigated whether BYCS had acted in a way that was contrary to law in not permitting the youth to make a private phone call to his lawyer. Under the *Youth Justice Regulation*, a youth custody centre can monitor certain telephone calls by a youth. However, calls to "privileged persons", including lawyers, the Ombudsperson and the Representative for Children and Youth, are exempt from any kind of monitoring or recording.

We discussed Dennis' complaint with the centre director. In response to the concerns about the staff member standing close by while the call was made, the director of BYCS explained that these telephones were equipped with dial pads and staff needed to keep a close eye on youth using the telephones to ensure that they did not contact victims or other persons not authorized by centre staff.

We were not satisfied that this was an adequate response to the concern. Given that privacy during communications with privileged persons is a statutory requirement, and given the fundamental importance of solicitor-client privilege in the justice system, we expanded our investigation to include the other two youth custody centres in British Columbia, Prince George Youth Custody Services and Victoria Youth Custody Services.

In the course of our investigation, we conducted site visits to each of the centres. We observed that the telephones on the units at all the centres were open to the rest of the room and the telephones in most of the units at BYCS were located directly across from the staff office. None of the telephones in the centres appeared to be adequate to ensure the statutory requirements for privacy and for ensuring solicitor-client privilege. In addition to the site visits, we spoke with the directors of the centres and discussed our investigation with senior officials in the Ministry of Children and Family Development.

The location of the telephones in each of the centres did not provide sufficient privacy for youths communicating with privileged persons. In addition, we wondered whether the youth custody policy manual provided sufficient guidance to staff regarding the importance of ensuring privacy during privileged communications. In particular, it appeared that youths were given privacy during such telephone calls only if the youth requested privacy. We were concerned that youth were not adequately exercising this right to privacy, and were of the view

that a youth in custody should not have to request private communication with privileged persons. There were clear requirements to ensure privacy during specific communications and that it was the responsibility of each centre to ensure that the requirements were met.

As a result of our investigations and following consultation with our office, Youth Custody Services (YCS) took steps to ensure that all youth in custody have access to a private location to make telephone calls to privileged persons. Youth in all of the custody centres now have access to a soundproof booth in which to make privileged telephone calls. These booths are located either on the unit or in a common area. As an interim measure before these booths were constructed, the centres gave youth access to private offices.

In addition, YCS developed and implemented a provincial policy which sets out a youth's right to private communication with privileged persons, confirms that telephone calls to privileged persons cannot be monitored under any circumstances, and which required each of the centres to develop procedures to accommodate such telephone calls in a timely fashion. Importantly, any privileged call is now conducted in private, whether or not a youth requests privacy. The centres have updated their youth orientation guides to reflect this new policy.

We would like to acknowledge the youth whose complaint brought this important issue to our attention and whose action benefits all young people who are held in custody in British Columbia. As a result of the steps taken by YCS to address the concerns raised, we considered the complaint resolved.





The ministry agreed to reimburse him for the costs he incurred in connection to the error, including the cost of a ticket issued as a result of the error, legal fees for resolving the error, and impound fees.

CASE SUMMARIES

Driving and Transportation

Setting the record straight

COURT SERVICES, MINISTRY OF ATTORNEY GENERAL

The Interior

Steven complained that his car was impounded due to an error by the city's Court Services in recording the outcome of a proceeding under the *Motor Vehicle Act*. He said a conviction was entered under the wrong charge, resulting in an automatic prohibition on his driving record. He said he had requested reimbursement for impound fees and additional costs from Cranbrook Court Services but was told it did not have authority to reimburse him.

We investigated whether Court Services had responded adequately to Steven's request for reimbursement. We obtained Steven's driving record and relevant documents from his court file. Those records appeared to confirm his conviction under section 24(1) of the Act was incorrectly recorded as a conviction under section 95(1) of the Act. As a result an automatic 12 month driving prohibition was entered as required under section 99 of the Act for a section 95(1) conviction. This error was corrected by Court Services on court documentation, but Steven's car was impounded nine days later because his driving record had not yet been corrected.

Based on the information we obtained from Steven's driving record and court file, we spoke with the Ministry of Attorney General. The ministry agreed to reimburse him for the costs he incurred in connection to the error, including the cost of a ticket issued as a result of the error, legal fees for resolving the error, and impound fees.

Conflicting medical information creates a problem

OFFICE OF THE SUPERINTENDENT OF MOTOR VEHICLES

Vancouver Island/Sunshine Coast



Mrs. Martin, an elderly woman called us because she could not convince the Office of the Superintendent of Motor Vehicles (OSMV) she was able to drive safely. She told us OSMV had cancelled her licence in 2008 because she failed a DriveABLE computer test. Although she later took and passed an ICBC road test, Mrs. Martin told us OSMV wanted her to take another DriveABLE computer exam. She did not think this made sense because her specialist had again supported her fitness to drive and she had successfully passed the ICBC test. We agreed to investigate to ensure that OSMV fairly considered the information relevant to Mrs. Martin's ability to drive.

During our investigation we learned that the 2008 DriveABLE computer test had been required when Mrs. Martin's doctor expressed concern about her ability to drive. When Mrs. Martin failed the functional driving assessment computer test in 2008 she was not allowed to take the road test and her licence was cancelled.

We confirmed that Mrs. Martin's doctor and her specialist had both written to OSMV in 2009 asking that she be allowed to take the DriveABLE road test. OSMV permitted her to take the ICBC road test which she passed. When Mrs. Martin sent in her next driver's medical, OSMV reviewed her file and realized that there was conflicting information regarding her fitness to drive.

OSMV wrote to Mrs. Martin and explained that she had to take functional driving assessment (DriveABLE) before it could resolve the conflicting medical information. While OSMV policy and its 2010 Physician Guide supported the decision, in our view it was unclear that this was necessary.

As a result of our consultation, OSMV reviewed Mrs. Martin's file again and agreed to allow Mrs. Martin to take a road test without having to take and pass the DriveABLE computer test. Further, OSMV agreed to pay for the road test.

After closing our file, Mrs. Martin called to tell us that she passed the road test and was driving once again.

No party

MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE
Vancouver Island/Sunshine Coast

In 2009, Doug bought a "party bus" for his business. He believed it had been converted to the party bus layout in the US before crossing the Canadian border in 2008. Doug said the bus was inspected by Transport Canada when it entered Canada and issued a Canadian Motor Vehicle Safety Standard (CMVSS) sticker. Doug said the previous owners told him they had used the party bus commercially under provincial license. He called the Passenger Transportation Branch (PTB) to find out what he had to do to get the bus licensed. The PTB had an area vehicle inspector look at the bus who concluded the bus was not CMVSS compliant. Doug did not understand how the bus could be inspected by Transport Canada and operated in British Columbia by the previous owners, but now the PTB would not allow the bus onto B.C. roads.

We investigated whether the PTB employed an arbitrary procedure in this case by requiring Doug to prove CMVSS compliance for his party bus in spite of a CMVSS sticker. After reviewing the information we were satisfied that the PTB can require that a party bus meet CMVSS standards before it issues a passenger transportation licence for B.C. roads. In this case, the CMVSS decal only indicated that Doug's bus was in compliance at the time it came into Canada. The issue was whether the bus continued to be compliant.

Since there was concern that Doug's bus had been modified after entering Canada, and there was no record of his bus being previously licensed in British Columbia, PTB asked Doug to provide proof his bus continued to be CMVSS compliant. PTB explained that until an applicant contacted it, there was no way for staff to know if that person was thinking of buying a party bus. Once contacted, the PTB practice is to suggest that the person not make a purchase until their PTB application is approved. Unfortunately, the PTB sometimes does not get a call until after an applicant had bought a party bus, as in Doug's case.

We suggested that the PTB process could be improved with more proactive information on its website that would allow the public to make better informed choices when they were considering buying specialized vehicles. As a result of our investigation, the PTB posted a detailed Industry Notice explaining these requirements to those interested in buying a party bus or specialized vehicle.

We suggested that the PTB process could be improved with more proactive information on its website that would allow the public to make better informed choices when they were considering buying specialized vehicles. As a result of our investigation, the PTB posted a detailed Industry Notice explaining these requirements and directed at people interested in buying a party bus or specialized vehicle.

Why won't they accept my ID?

INSURANCE CORPORATION OF BRITISH COLUMBIA

Vancouver Island/Sunshine Coast

John contacted us with a complaint that ICBC would not renew his license unless he provided ICBC with proof of citizenship or proof that he had applied for citizenship documentation. ICBC told him it would issue him a temporary driver's license.

John told us he has had a valid British Columbia driver's license since the 1960s and had not encountered any difficulties with renewing his license until recently. He did not understand why he was required to prove citizenship now.

John emigrated to Canada with his parents as a child in 1953 and though he had lived in Canada since then, he did not have Canadian documentation and had relied on his B.C. driver's license for identification purposes his entire adult life. He told us he would have to pay a fee to apply for citizenship and the process would likely take several months. John said the expense would prove a hardship as he receives only a small pension. He was very concerned because he said he is unable to cash his pension cheques without a B.C. driver's license or equivalent identification.

We reviewed ICBC's website materials on acceptable primary identification and determined that a number of different documents were considered to be acceptable forms of primary identification. We contacted John and asked if he had any of the primary identification documents listed on ICBC's website. He told us that he had one official document which pertained to his arrival in Canada. We asked that he forward a copy of it to our office as it appeared to match the description of a Canadian Record of Landing. We reviewed it and, though it was not labeled as such, determined it was a certified copy of a Canadian Record of Landing. We recommended that John go to ICBC and provide it with a copy of this document in support of his application for a driver's license.

He later told us he had done so and that it had not been accepted. We agreed to investigate John's complaint and requested that ICBC provide us with an explanation for its refusal to accept the document provided as primary identification as it appeared to meet the criteria ICBC posted on its website. With his permission, we provided a copy of John's document to an ICBC customer service representative who subsequently confirmed that the document was acceptable. We made arrangements with the customer service representative to have a specific ICBC representative available at John's preferred ICBC office to receive a copy of his document and assist with the processing of his license application. We then informed John that ICBC had confirmed the document he had was acceptable and we encouraged him to go to the ICBC office to apply for his B.C. driver's licence.

John later told us he went to ICBC's office and it had agreed to accept his document as acceptable primary identification. He received his new permanent B.C. driver's licence and said he considered the matter to have been resolved. He thanked us for our assistance.

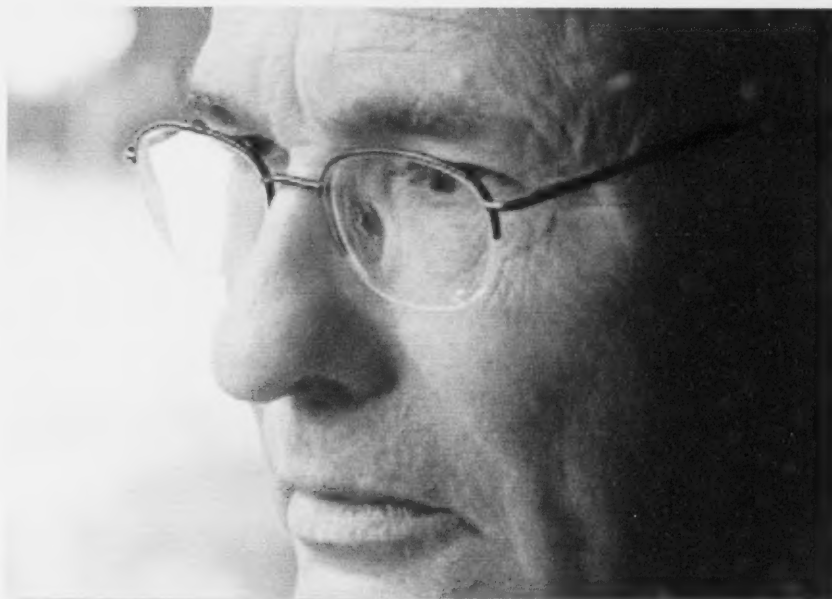
Comparing apples to apples (or tests to tests...)

OFFICE OF THE SUPERINTENDENT OF MOTOR VEHICLES

The Lower Mainland

Don called us about the Office of the Superintendent of Motor Vehicles (OSMV) because he could not get his driver's license back. Don, who was mildly brain-injured, was under the care of a psychologist and his condition was improving slowly. He took a functional driving test and the assessor said that he could take a road test. Later, the assessor changed his mind and said Don was not sufficiently improved to take a road test. Don sent OSMV medical information from a specialist which he believed supported his return to driving, but OSMV still wanted another report before it would consider giving him his license back. Don did not think it was fair that the assessor could change his mind like that, or that he was going to have to pay for the testing himself.

We spoke with a senior administrator at OSMV about Don's situation. The administrator explained there was conflicting information about Don's fitness to drive and OSMV had a responsibility to the driving public to ensure only fit drivers were issued drivers' licenses. The administrator agreed that it was difficult to come to any conclusions about Don's fitness to drive due to the conflicting information it had received. OSMV agreed to offer Don a chance to take another functional driving test with a different evaluator at OSMV's cost and agreed to consider the results of that test. As OSMV agreed to consider the results of another functional driving assessment and to cover the costs of the testing, we considered the matter resolved.





CASE SUMMARIES

Education

Second chances

DOUGLAS COLLEGE

The North

Mary was a student in the refresher program in psychiatric nursing at Douglas College. She ran into problems during the practical part of the program and was given a failing grade for the practicum. She was told she could appeal this grade but decided what she wanted was an opportunity to repeat the practicum. She was told by the college that this was not possible. The college had withdrawn her from the program and determined that she would not be allowed to re-enter it. Something did not seem fair about this to Mary, so she contacted our office.



Our investigation included a review of the college's appeal policy which said that a student could appeal "a decision by an employee of the college that significantly affects the education of the student". This seemed to apply to the decision to withdraw Mary from the refresher program, but it did not appear that the college had given her the opportunity to appeal this decision.

We consulted with the college, which eventually agreed that the withdrawal decision was eligible for appeal. They also acknowledged it had not given Mary the opportunity to appeal the decision. A significant period of time had passed since Mary had withdrawn from the program and the

college agreed to waive the time limit on appealing the decision. The college also gave her another opportunity to appeal her practicum grade.

During the course of our investigation, the college made a number of changes, including establishing a training program to train its deans and associate deans in the college's policies, and hiring a manager to deal with student complaints. This satisfied us that in the future, students would be provided the opportunity to appeal decisions that affected their education.

Getting answers

SCHOOL DISTRICT 22 (VERNON)

The Interior

A parent complained that the school district had not done anything in response to her complaint about her child being bullied. Elaine said she had contacted the principal and the superintendent and she had not received a response.

We notified the principal of the child's school that we were investigating a complaint about the school district's response to a parent. He told us what steps had been

taken in response to Elaine's concern. Elaine was not satisfied with the principal's response and contacted the superintendent. We contacted the superintendent who confirmed that she had received an email from Elaine in January which had been forwarded immediately to the director of instruction for student learning for follow up. The director of instruction for student learning contacted Elaine directly to discuss her concerns. The director offered to mediate the dispute but Elaine indicated that she wanted her son moved to a different school so the director facilitated the transfer.

Although the superintendent took immediate action, Elaine was still waiting for a response from the superintendent to her complaint so she would know they had followed up on her concerns. The superintendent confirmed that she had not replied to the parent's email. She said she did not do so as she knew that the director of instruction was working with Elaine directly to address her concerns. The superintendent told us that she could not become involved in the dispute at that time as she was required to remain at arm's length in order to be in a position to review the matter if it was later appealed.

The superintendent acknowledged that Elaine was not aware she would not be in contact with her, nor was Elaine aware that she had forwarded the complaint to the director of instruction or of the reasons for this. As a result of our investigation, the superintendent provided a response to Elaine in June assuring her that her concerns had been taken seriously and explaining why she had not responded directly to her at the time the complaint was made.

The superintendent further advised that in order to ensure parents are better informed in the future she will revise her practice so that parents who file a complaint with the superintendent directly are informed of the process that will be followed. She advised that parents or others who bring concerns to her attention will be told that their concerns are being forwarded to a district employee for review because the superintendent cannot be involved at the early stages in case the matter is later appealed.

The superintendent also advised that the district is working on adding information about the complaints process to their website so that parents and others are better informed of the complaints process. We believe that this was an appropriate settlement of the complaint and we closed our file. We will follow up in the new school year to see if changes have been implemented.

Relieved

REVENUE SERVICE BC, MINISTRY OF FINANCE

The Interior

Travis complained the BC Student Loan Service Bureau had not responded fairly to his inquiries and applications regarding the interest relief program before referring his loan to Revenue Services of BC for collection. He said the Bureau had not provided an application form after he requested one, and when he made a second request, he received a partially illegible form. He said after he completed and submitted an application for interest relief, his loan was referred to Revenue Services and his interest relief application was never processed. He said his family of seven was in a financial crisis as a result of the collection activities on his loan.

We investigated whether the Student Loan Bureau followed a fair procedure in processing the request for interest relief. We spoke with the Ministry of Finance, which agreed to put collection of Travis's loan on hold pending our investigation, and which provided us with records and relevant forms. Based on our review of those records, it appeared the Bureau had made errors in responding to Travis's requests.

The ministry sent Travis a letter explaining these steps and apologizing for the difficulties he had experienced as a result of errors by the Student Loan Bureau. The ministry also undertook additional corrective actions, providing more training and coaching to Bureau staff and reviewing and updating form letters, policies and procedures related to the areas of concern identified as a result of the complaint.

The ministry advised us it was recalling Travis's account from Revenue Services and recalling or correcting all resulting reports to the credit bureau. It also explained it was refunding money it had received from the Canada Revenue Agency and reversing all interest charges on the loan applied since the month Travis submitted his completed interest relief application.

Most notably it provided Travis with a letter setting out a deadline for him to submit his completed interest relief application, but did not respect that deadline itself. It seemed Travis had submitted his application before the deadline, but the Bureau had already referred his loan for collections. As a result, his interest relief application was never processed.

We advised the ministry that the Student Loan Bureau appeared to have acted unfairly by referring Travis's account to Revenue Services for default collections when his interest relief application was still in progress. We also pointed out there seemed to be other errors on the application forms sent to Travis. On that basis we asked the ministry to reconsider his eligibility for interest relief based on his original application and to take steps to correct the consequences of the referral of his loan for default collections. We also suggested the ministry review a number of apparent inconsistencies in the correspondence sent to Travis regarding the due date of his loan and loan payments and the amount by which his payments were past due.

The ministry agreed to do this and later advised us it was recalling Travis's account from Revenue Services and recalling or correcting all resulting reports to the credit bureau. It also explained it was refunding money it had received from the Canada Revenue Agency as a result of collection activity and reversing all interest charges on the loan applied since the month Travis submitted his completed interest relief application. It said Travis would be able to apply for interest relief based on his current financial situation.

The ministry sent Travis a letter explaining these steps and apologizing for the difficulties he had experienced as a result of errors by the Student Loan Bureau. The ministry also undertook additional corrective actions, providing more training and coaching to Bureau staff and reviewing and updating form letters, policies and procedures related to the areas of concern identified as a result of the complaint. Based on the steps taken by the ministry to address Travis's concerns and the steps being taken to ensure others did not face the same difficulties, we considered the complaint settled.

A better designed process

EMILY CARR UNIVERSITY OF ART & DESIGN

The Lower Mainland

Rachel was a student at the Emily Carr University of Art & Design. She was suspended from the university for the summer and fall semesters. She said the suspension was based on three disciplinary incidents but that the second incident leading to the suspension was simply a miscommunication, which the university director acknowledged. Rachel believed it was unfair of the university to rely on the second incident in suspending her so she appealed the suspension to the university's Senate Appeals Tribunal. The tribunal did not hold an oral hearing and Rachel was not given the opportunity to provide submissions to the tribunal. She did not know that she could ask for an oral hearing and was not told how to request one. The tribunal denied the appeal.

Rachel contacted our office because she thought that it was unfair that she was not given a chance to present her side of the story to the tribunal. When we contacted the university, it said the tribunal's appeals were closed to the public and that it generally did not invite appellants to present their appeal in person. It said the tribunal had the ability to hold oral hearings upon request, but that it had only received one request for an oral hearing to date. The university explained appeals were conducted by reviewing written records and that the tribunal would assume that any written materials were factual and true. Therefore, the tribunal would

decide issues of credibility based on the documents without hearing from the individuals involved.

We questioned whether it was fair of the university to decide Rachel's appeal without ever hearing from her. We reviewed past court decisions regarding when an oral hearing may be appropriate. One factor indicating that an oral hearing is appropriate is where issues of credibility need to be determined. Given there were clearly contradictory accounts of the second incident relied upon, it seemed the tribunal would have had to determine which version of events was more credible before it could decide whether the suspension was appropriate. Therefore, we consulted with the university and proposed that it consider amending the tribunal's policy to provide for oral hearings in certain circumstances like Rachel's. The university reviewed the tribunal's terms of reference and provided us with a draft of the revised policy. The revised policy requires that students are provided an opportunity to respond to a statement of allegations in writing and that they be provided with an oral hearing on all allegations of misconduct that are directed to it by the registrar.

Rachel's suspension had already been completed by the time our investigation concluded so there was no benefit to her from this change. However, her action in coming to our office with her complaint resulted in a better process for all her fellow students.





HIBC approved MSP coverage for Lori's children and the ministry revised its practice of processing applications for adopted children to be consistent with the requirements under regulation.

CASE SUMMARIES

Health

Eligibility requirements for an adopted child

MEDICAL SERVICES PLAN, MINISTRY OF HEALTH

The Lower Mainland

Lori is a B.C. resident and has two adopted children from the United States. She applied for coverage under the Medical Services Plan (MSP) for the two boys in February 2011. The application stated the children had been living in British Columbia for almost two years and included their adoption orders dated September 2010. However, Lori was told by Health Insurance BC (HIBC) that her children were not eligible for MSP until she provided evidence that they could remain in Canada under a visitor visa or evidence that she had applied for their permanent residency. Lori thought it was unfair that her children were being denied MSP coverage despite the fact that she was a resident of the province and that her children had been living in British Columbia for almost two years.

When we first spoke with the Ministry of Health, the ministry confirmed that Lori was required to provide proof of the children's immigration status before they would process the application. We reviewed the relevant regulations and it appeared that an adopted child of a B.C. resident was "deemed" to be a resident as long as they made their home in British Columbia and were physically present in the province for at least six months of the year.

In the course of our investigation, HIBC approved MSP coverage for Lori's children retroactive to February 2011, when she had first applied. However, its reasons for doing so seemed inconsistent with the regulations, which raised a concern about the ministry's and HIBC's general practice or policies in this area. Therefore, we continued consulting with ministry staff. After several meetings, the ministry agreed that an adopted child who makes their home in British Columbia and is physically present in the province for at least six months in a calendar year should not have to provide proof of citizenship or permanent residency. The ministry also confirmed that this shift in position was drawn to the attention of HIBC staff.

Since HIBC approved MSP coverage for Lori's children and the ministry revised its practice of processing applications for adopted children to be consistent with the requirements under the regulations, we considered the complaint resolved and closed our file.

Getting my medicine paid for

PHARMACARE

The Lower Mainland

Elena required injections of medication in order to treat her medical condition. Those injections had to be given by her doctor at the doctor's office. The doctor dispensed the medication directly. Elena paid her doctor and received a receipt for the medication which she submitted to PharmaCare for reimbursement. However, PharmaCare said it would not provide coverage for the cost of the medication because it was purchased directly from the doctor. Elena believed it was unfair to penalize her simply because she did not purchase the medication from a pharmacy.

We investigated whether PharmaCare had provided Elena with adequate reasons for its decision to deny her coverage for the medication. PharmaCare explained that its policy is to only cover billings from a pharmacy or supplier that has signed a Pharmacy Participation Agreement with PharmaCare. Under this policy, PharmaCare will accept manual claims only from doctors who have signed such an agreement. Elena's doctor had not signed such an agreement with PharmaCare.

As PharmaCare had not provided information about the policy to Elena directly, it agreed to adjudicate Elena's claim on an exceptional basis. PharmaCare also explained Elena's options for ensuring she received coverage in the future.

Fair pay

INTERIOR HEALTH AUTHORITY

The Interior

Ms. Henderson complained that the Interior Health Authority's (IHA) response to her request for a reduction in her residential care rate was unfair because the health authority had not adequately taken into account her financial commitment to supporting her teenage daughter.

We investigated whether IHA followed a fair procedure in responding to Ms. Henderson's request for a rate reduction. When the health authority provided its response on the matter it gave us copies of records related to Ms. Henderson's request and told us Ms. Henderson had been granted a reduction in her residential care rate due to a more recent change in her income. After reviewing the records provided and discussing the rate review process with IHA staff, we were satisfied that Ms. Henderson's initial request for a rate reduction had been processed fairly.

However, based on the information provided by IHA about Ms. Henderson's more recent rate reduction, it was unclear based on the ministry's Home and Community Care Policy Manual and the information provided by the health authority why Ms. Henderson would not qualify for a rate below the prescribed minimum. We asked IHA to reconsider its assessment and, IHA as a result, reduced Ms. Henderson's rate based on hardship retroactive to the date of the change in her income.



Getting help that's needed

HEALTH ASSISTANCE BRANCH, MINISTRY OF SOCIAL DEVELOPMENT

The Lower Mainland

Andrew had been designated a Person with Disabilities (PWD) and received disability assistance. As a recipient of disability assistance, Andrew wanted to apply for health supplements under the *Employment and Assistance for Persons with Disabilities Act* (the Act). Specifically, he wanted to get new glasses and a denture reline. Andrew's application for PWD designation had been approved in August, so he believed he was eligible to apply for the supplements. However, earlier in the year Andrew had opted out of the provincial Medical Services Plan (MSP). The ministry told Andrew because he had opted out of MSP, he was not able to apply for supplements under the Act. Andrew said this was unfair, because MSP was completely separate from the health supplements available under the Act.

We investigated whether the ministry had followed an arbitrary procedure in determining that Andrew could not apply for health supplements. The ministry initially told us that Andrew was not eligible because in order to process his

After consultation, the ministry agreed that Andrew could apply for the health supplements he required and which were provided for under the Act and associated regulations.

application, the ministry needed a personal health number, which is only provided if Andrew was registered with MSP. We reviewed the legislation and noted that a person's MSP status was not part of the eligibility requirements for health supplements.

After consultation, the ministry agreed that Andrew could apply for the health supplements he required and which were provided for under the Act and associated regulations. The ministry wrote to Andrew to explain how he could obtain these supplements.

Telephone privileges

FORENSIC PSYCHIATRIC SERVICES COMMISSION, PROVINCIAL HEALTH SERVICES AUTHORITY

The Lower Mainland

Sean is a patient at a forensic psychiatric hospital. He complained his telephone access had been restricted and he was limited in who he could call and how often. He thought this was an unfair restriction on his freedom, especially since he did not know how long the restrictions would be in place.

When we spoke with the hospital, staff said that Sean's telephone access was restricted as a result of his treatment plan. The treatment plan stated calls were restricted to lawyers, the Office of the Ombudsperson and family members. They explained that there was a no-contact list of specific individuals and organizations arising from one of Sean's Review Board hearings. They also said that the hospital had received letters and phone calls from different agencies requesting that Sean stop communicating with them.

When we investigated, we determined that the hospital only had records of two requests for no contact from Sean in addition to the no-contact list. Therefore, we questioned whether the blanket telephone restriction was reasonable. We consulted with the hospital regarding whether they would consider limiting Sean's telephone restrictions only to individuals and organizations who appear on the no-contact list or who specifically request no-contact from him.

The hospital agreed that telephone restrictions should only be in place when there is a no-contact order or a specific, written request from a person or organization. Therefore, the hospital revised Sean's treatment plan so that he is restricted from phoning only those on the no-contact list or those who have requested no-contact from him. Since the hospital's agreement to revise Sean's treatment plan addressed our concerns, we considered the complaint to be settled and we closed our file.

Double billed

HEALTH INSURANCE BC – MSP

Vancouver Island/Sunshine Coast

Kathy moved to Quebec from British Columbia to attend university. In 2000 she was enrolled in the Quebec Medical Plan. She moved back to British Columbia in 2005 and enrolled in the Medical Services Plan (MSP) under her employer's group account. She changed employers a short time later and her new employer also paid her MSP premiums as part of her benefits package. In 2006, Kathy received a \$108 bill for MSP premiums. She assumed there was a gap in premium payments made by her respective employers and she paid the amount in full. Kathy heard nothing further with respect to any premium debt until 2009 when she received a \$1,233 bill for premiums.

The ministry agreed to retroactively change the date of cancellation for Kathy's coverage and sent a refund to her for payments she had already made against the previously assessed debt.

She learned the premiums she paid in 2006 were applied to a debt from 2000 and 2001, a time when she was eligible for premium assistance. It was Kathy's understanding she did not owe for premiums for this time period, and she was concerned she had not been informed of the premium debt in a timely way or provided with any opportunity to dispute the validity of the claim that she owed premiums for that time. MSP cancelled Kathy's coverage during the period she was living in Quebec, but only to November 30, 2001. When we questioned this, the ministry explained this was as far back as the computer system would allow and it noted that she failed to meet her obligation to notify the MSP of her change of address when she moved from British Columbia.

Neither reason seemed to provide sufficient basis to continue to charge Kathy for premiums since she had established she was living in another province and enrolled in that province's medical plan. If a debt is not valid, then the technical limitation of a computer system does not justify collection of the debt and we would expect the authority to find another means to remove the debt.

We suggested the ministry reconsider its decision and it agreed to retroactively change the date of cancellation for Kathy's coverage to July 31, 2000. The ministry sent a refund to her for payments she had already made against the previously assessed debt.

Restoring my coverage

HEALTH INSURANCE BC - MSP

The Interior

Leslie complained that staff representing the Medical Services Plan (MSP) told him they could not restore his medical coverage because they required proof of citizenship. He told us he had lost his wallet and was in the process of getting new identification, but was having difficulty getting a new birth certificate from his home province as he had not been able to get a guarantor who would satisfy the requirements for issuance of a new certificate. As a result he said he would not be able to provide the requested proof of citizenship for several months, and that he was scheduled to have necessary heart surgery which made MSP coverage very important. Leslie said he had been covered under MSP until two years ago, when he moved to Ontario for a year and a half. He said he had already accumulated medical bills totalling more than \$3,000 and felt it unfair that he was being denied coverage for not providing proof of citizenship when he had previously been covered under MSP.

We investigated whether MSP had followed a reasonable procedure in responding to Leslie's application for coverage. We discussed the complaint with a Ministry of Health Services Policy Advisor who was able to identify Leslie's previous coverage. She told us that the previous coverage had not been identified earlier because Leslie's birth date had been recorded incorrectly on his original MSP account. The policy advisor restored Leslie's coverage and backdated it five months which covered his accumulated medical bills. She contacted Leslie to confirm that his coverage was restored. We then considered the complaint settled.





We identified that the cut off time and fax number for receiving evidence was not published on its website or correspondence. We noted that ensuring people are provided with clear information about deadlines is an important feature of a fair process.

CASE SUMMARIES

Home

Cut-off time

RESIDENTIAL TENANCY BRANCH

Vancouver Island/Sunshine Coast

Peter was dissatisfied with the decision from a Residential Tenancy Branch (RTB) hearing. The *Residential Tenancy Act* stated that an application for review of a decision must be submitted to the RTB within 15 days after receipt of the decision. On the 15th day, Peter submitted an application through a Service BC office to the RTB for review of the hearing decision. Later that evening, Peter faxed additional information in support of the request. The review decision upheld the original hearing decision. The additional information sent by Peter in the evening was not considered in the review because it was received after the office closed. Peter complained to our office that his additional information should have been considered because it was sent on the due date.

We investigated whether the RTB followed a reasonable procedure in processing Peter's application for review. The *Residential Tenancy Act* specified the number of days to apply for a review. The RTB told us it considers 4:00 p.m., RTB's office closing time, to be the cut-off time for accepting documents, with documents received after closing processed as being received the next day.

We identified that the cut-off time and fax number for receiving evidence was not published on its website or correspondence. We noted that ensuring people are provided with clear information about deadlines is an important feature of a fair process. The RTB acknowledged that it would be important from a service perspective to provide clear information about its fax number and cut-off times on the website and in correspondence for the public to avoid these situations in the future. Due to this, the RTB updated its website, correspondence and relevant fact sheets to include a fax number and the cut-off time of 4:00 p.m.

Peter understood that the change in practice did not benefit him directly, however, he was pleased that the change could benefit persons who submit documents in future. Happily, his landlord did not follow through with his eviction.

Electricity for the weekend

BC HYDRO AND POWER AUTHORITY

Vancouver Island/Sunshine Coast

June called us because she did not know how she and her child would cope over the weekend with no power to her house. June explained that her power had been disconnected because she was behind in her BC Hydro payments. She said she had paid approximately \$1,800 the week before, and another \$100 the day before. Even though her account was now paid off, she said BC Hydro would not reinstate her power until the \$100 cheque cleared the bank. BC Hydro estimated that it might take up to a week for it to clear. June did not think it was fair or reasonable that her family would have to wait another week for electricity. As well, only after BC Hydro received fax confirmation of the payment was June told there would also be a reconnection fee.

We investigated whether the delay in reconnecting June's electricity was unreasonable. During our investigation we learned that the fastest way to make a payment to BC Hydro was to make the payment at a bank and then phone BC Hydro with the bank name, address and receipt number. BC Hydro can then call the bank and verify over the phone that the payment had cleared. Unfortunately, June had put her cheque in an outside drop box, which meant there was no way to speed up the process.

When we explained June's circumstances, BC Hydro approved immediate reconnection of her power. Crews were slated to work until 7:00 p.m. that night. However if, for some reason, June's power was not restored, we asked what she might do as she would have no way of contacting anyone at BC Hydro's office until after the weekend. BC Hydro agreed to contact the field crew and we received confirmation that June's power was restored later that day.

Options

HOME OWNER GRANT ADMINISTRATION,
MINISTRY OF FINANCE

Vancouver Island/Sunshine Coast

Mrs. Kemani called us because she felt like she had no options. She said her children were trustees of her money because she had a mental illness which made it unsafe for her to manage her own funds. When the trust purchased her home, Mrs. Kemani learned that she could not claim the Home Owner Grant because her name was not on title. Mrs. Kemani said that this was unfair as her children could not claim the grant either because they did not live with her. Mrs. Kemani said that no one would explain why the trust (of which she was the beneficiary) could not claim the grant. We investigated whether the Home Owner Grant Administration had adequately explained the reasons for its decision to deny the grant to Mrs. Kemani.



When we spoke with a senior auditor at the Home Owner Grant office she explained, and we confirmed, that the law did not allow for a beneficiary of a trust to claim the grant. The auditor explained there may be some options open to Mrs. Kemani and her family which could make her eligible in the future. She agreed to write to Mrs. Kemani explaining the decision with some of the available options.

We reviewed the letter that the Home Owner Grant auditor sent Mrs. Kemani and noted that it explained fully why she was not eligible for the home owner grant under the circumstances, and outlined options that might be open to her in the future. The letter also recommended that Mrs. Kemani seek legal advice before taking any action regarding the title of the property to make sure she and her children understood all the possible consequences of any changes to title. Mrs. Kemani appreciated the explanation and she was also happy to have some options to discuss with her family.

Paying what's fair

RESIDENTIAL TENANCY BRANCH

The Lower Mainland

Alison had been involved in a dispute resolution hearing with her former landlord. At the hearing, the landlord was successful and the Dispute Resolution Officer (DRO) awarded him an amount for unpaid rent and damages. However, the decision did

not identify whether the security deposit should be repaid even though Alison requested this in her application. Because it was not addressed in the decision, the landlord did not repay Alison's security deposit, and Alison was reluctant to pay the order. She believed it was incorrect because it did not account for the security deposit. The landlord then took steps to enforce the order. To avoid a payment hearing in provincial court, Alison paid the full amount of the order. This included an additional \$101 which the landlord claimed in court costs for the payment hearing. In addition, the landlord continued to hold Alison's security deposit.

We investigated whether the Residential Tenancy Branch (RTB) had adequately addressed the return of the security deposit in the decision. In response to our investigation, the DRO issued a clarification in which he ordered that the landlord could keep the security deposit and reduced the amount Alison owed accordingly. However, since Alison had already paid this amount, she had to obtain a further RTB order for the landlord to repay her.

We were concerned Alison had paid \$101 in court costs to the landlord because the RTB did not deal with the security deposit in the original decision. Following consultation with our office the RTB agreed to issue an ex gratia payment of \$101 to Alison. This restored her to the same financial position she would have been in had the RTB not made a mistake. Alison said she had received this payment and her former landlord had repaid the amount he owed her. We determined that the steps taken by the RTB settled the complaint and we closed our file.

Lack of easement

LAND TITLE AND SURVEY AUTHORITY

The Interior

John told us that decades ago he bought a property that had a 20 foot easement between his and an adjacent property (ten feet on each property). John explained this easement was used by various neighbours to provide access to the highway. During subsequent subdivisions, the ten foot easement on the adjacent property seemed to have disappeared. John's property still showed a ten foot easement, but he said it was difficult to manoeuvre around other vehicles in the narrower ten foot space.

John thought his easement should be removed since most of the other property owners now had direct access to the highway. He wrote to the Land Title and Survey Authority (LTSA) and they explained the process for removing his easement. However, John did not understand why the easement on the adjacent property had disappeared in the first place.

We investigated whether the LTSA followed a fair process, if it registered the subdivision of an adjoining property without including a road easement, and whether the LTSA provided John with adequate reasons. In response to our investigation, the LTSA conducted historical research on the state of title of the two properties. The LTSA told us it appeared the easement on the lot adjacent to John was inadvertently dropped from the title decades ago. The LTSA explained that the *Land Title Act* only authorized the LTSA to correct errors in situations where the correction would not prejudice rights acquired in good faith. Since the owner of the adjacent property bought the property without the easement showing on title it was the LTSA's view that the easement could not be placed back onto the adjacent property without prejudicing the rights of the current owner.

We suggested the LTSA provide John with an explanation regarding the status of the easement on his property and why the adjacent easement could not be restored and the LTSA wrote an explanatory letter to John.

How can I pay once a month when my pay is on a different schedule?

BC HYDRO AND POWER AUTHORITY

The Lower Mainland

Marjorie called us in a panic as her power was about to be disconnected. She said she was behind on her payments to BC Hydro, but could not afford the repayment option. Marjorie had two young children in her house and needed power for heat and light. Given her urgent circumstances, we investigated whether BC Hydro had followed a fair process in deciding that Marjorie's power would be cut off if she did not immediately start paying \$400 twice a month as well as her regular hydro charges.

We focused our investigation on the fairness of Marjorie's repayment schedule. We reviewed Marjorie's account history with BC Hydro, including records of telephone conversations, letters, bills sent, and payment plans created. Marjorie's account had not been paid in full since she opened it two years earlier. BC Hydro had created many payment plans to help Marjorie pay the overdue amounts, but none of them had been successful. Although Marjorie usually made payments every couple of weeks, the payments were often late, or for less than the amount she had agreed to pay.

When we spoke with Marjorie she explained that it was hard for her to budget for the monthly instalment payments because she got paid every two weeks. She tended to lose track of when bills were due, and for how much. Although she had taken on a second job to earn more money, she was falling further behind with BC Hydro every month.

We discussed these challenges with BC Hydro and what might be done to address the situation. BC Hydro agreed to start another installment plan for the overdue amount. This time however, BC Hydro agreed to let Marjorie spread her payments on the overdue amount over a longer period. To help Marjorie, BC Hydro also agreed to automatic withdrawal through her bank for the new installment payments as well as her payments for current use. Marjorie was confident that she could manage the reduced payments over the longer term and felt that the automatic deduction would work better for her. We were satisfied that BC Hydro had offered a fair resolution to Marjorie's situation.

It's just a typo?

LAND TITLE AND SURVEY AUTHORITY

The North

Karen complained to our office about the Land Title and Survey Authority (LTSA). She provided us with a title search printout that read "corrected" next to the tenancy type for the property. She believed that the LTSA had "corrected" the tenancy type by changing it from joint tenancy to tenants in common without notifying her as to why it had done this. As tenants in common, this meant that on her husband's death she was not able to transfer his half of the property directly into her name. Instead, her husband's half became part of the estate and subject to estate taxes.

We investigated whether the LTSA provided Karen with adequate reasons for changing the tenancy type on her property. When we contacted the LTSA we



BC Hydro agreed to start another installment plan for the overdue amount. This time however, BC Hydro agreed to let Marjorie spread her payments on the overdue amount over a longer period. To help Marjorie, BC Hydro also agreed to automatic withdrawal through her bank for the new installment payments as well as her payments for current use.



discovered the LTSA had not changed the tenancy type on her property. She and her husband had never owned the property as joint tenants. Instead, they had purchased their property as tenants in common and had never applied to transfer the property into a joint tenancy. However, the LTSA had made a typographical error on a copy of her land title certificate which led Karen to believe they held the property as joint tenants. Once the LTSA became aware of the typographical error, the registrar "corrected" it in the register as permitted under section 383 of the *Land Title Act*. This correction ensured that the land title certificate perfectly mirrored the true state of the title. The correction did not affect the type of legal tenancy that Karen and her husband had always held.

The LTSA had communicated this information to Karen's notary but it had never told her directly about the error or the correction assuming her notary would tell her. The typographical error clearly caused Karen grief and misunderstanding. Although the tenancy type was not what Karen wanted and the LTSA could not change it, the LTSA did acknowledge its typographical error and apologized to her.

Turned off

BC HYDRO AND POWER AUTHORITY

Vancouver Island/Sunshine Coast

Kyle called us in a panic because his power was about to be disconnected. He told us BC Hydro was going to disconnect his power that day unless he paid his outstanding debt of \$3,720 in full. Kyle explained the debt had built up for a number of reasons, and there was no way he could pay the full amount that day. He said that there was only one BC Hydro meter in his building and he was being charged for power used by the other tenants as well as himself. Kyle said his friend would loan him \$2,000 that day but only if the power would not be disconnected. He said he offered to pay \$2,000 that day and the rest of the balance the following week.

We investigated to ensure BC Hydro had fairly considered all factors in deciding to disconnect Kyle's power without payment of the debt in full. We spoke with the manager of customer advocacy for BC Hydro for information. The manager explained that although there might be four families living in Kyle's building, it was only zoned as a single-family dwelling. This meant that BC Hydro could only install one meter, and Kyle's name was on the account. Further, records showed he had not made any payments for six months. The manager explained that Kyle needed to make arrangements with his landlord and / or the tenants if they owed him money for hydro but that he was responsible for the contract with BC Hydro.

We confirmed that BC Hydro had issued a final notice of cancellation, but had not yet scheduled the date for disconnection. The manager agreed that Kyle's power would not be cut off provided:

- He paid \$2,000 at a bank or financial institution and phoned BC Hydro by 4:00 p.m. that day to confirm that he had done so
- He paid the balance of his account by the following week
- He continued to make the monthly payments of \$246 per month

Kyle told us that he could meet these requirements. As BC Hydro had the authority to disconnect power for non-payment, and agreed that it would keep Kyle's power hooked up as long as he met the requirements of the payment schedule outlined above, we considered this matter settled.



Income and Community Support

It's cold up here

MINISTRY OF SOCIAL DEVELOPMENT

The North

Jennifer called us on a Friday from a northern community. She explained she had no money and no food. The fuel company had cut off her heating fuel and the temperature was expected to dip below freezing.

She said that when she contacted the Ministry of Social Development to ask for help, the ministry said she could pick up a \$20 cheque the following day. When Jennifer went to get the cheque she was told that the printer was broken and she would have to wait to receive the cheque in the mail once the printer was fixed. Jennifer said that the ministry did not offer her any alternative such as a food voucher. We contacted the ministry's manager of community relations and service quality and explained that we were investigating whether the ministry had responded to Jennifer's situation in a reasonable way. He reviewed Jennifer's situation with local staff right away. He also agreed with us that in a situation where the printer was broken, the ministry should have explored other ways to assist Jennifer, such as issuing a food voucher. The manager noted that Jennifer had a boarder who was receiving a cheque from the ministry that day and suggested that it might assist Jennifer to have room and board paid directly to her by the ministry.

The manager called us back and confirmed that staff had contacted the fuel company to arrange for reconnection and that the ministry issued payment for reconnection. The manager also explained that the cheque for Jennifer's boarder was issued directly to her. When we talked to Jennifer later, she told us that she had received her boarder's room and board cheque on Friday and she was able to purchase food. She said that she understood that she would now receive the room and board cheque directly from the ministry. She also confirmed that her heat had been reconnected.

The steps taken by the ministry's manager and local staff resulted in Jennifer having heat and food. We were pleased to have helped to ensure that Jennifer received the support she needed.



We immediately spoke with the ministry's manager of community relations and service quality regarding Judy's situation. The manager contacted the ministry office in Judy's community and arranged for her to be seen in person that day. Judy was approved for and received financial assistance immediately. She would also receive medical coverage, and ministry staff talked with her about applying for disability benefits.

Settling debts

MINISTRY OF SOCIAL DEVELOPMENT
The Interior

Martin had been receiving disability assistance for many years. When he contacted us he believed the ministry had made deductions from his disability assistance in error. He said he was not allowed to contact the ministry directly and had tried to address his concerns with the help of an advocate. However, he was not able to solve his concern.

We decided to investigate whether the ministry had been making deductions in error. We received information and records from the ministry about Martin's disability assistance and debts that Martin had with the ministry. It appeared that most of Martin's debts were acquired because the ministry had issued him repayable funds for damage deposits on his rental accommodation.

On review of the information, it looked like some of the repayments collected from Martin's disability assistance may have been made after the limitation period for collection of the debt had expired. We contacted the ministry's Financial and Administrative Services Branch. A manager reviewed Martin's file and found it had deducted payments from Martin's disability assistance after expiration of the time limit for collecting the debt. He concluded the ministry should reimburse Martin for those payments.

The ministry sent Martin a cheque for \$255 and a letter explaining that the debt had been incorrectly collected and that he now had no debts with the ministry.

Immediate response

MINISTRY OF SOCIAL DEVELOPMENT
The Interior

Judy told us that she was experiencing a financial crisis. She had applied for assistance from the Ministry of Social Development and a telephone appointment for the following night had been made to assess her application. Judy said she was at risk of losing her housing, had not been able to purchase medicine for her rheumatoid arthritis and was concerned that the ministry would not be able to complete the application process because she was not sure how to make certain that her supporting documents could get to the assessor so she could get immediate help.

We immediately spoke with the ministry's manager of community relations and service quality regarding Judy's situation. The manager contacted the ministry office in Judy's community and arranged for her to be seen in person that day. Judy was approved for and received financial assistance immediately. She would also receive medical coverage, and ministry staff talked with her about applying for disability benefits.

The ministry's immediate response ensured that Judy received both the financial and medical assistance she needed.

Time matters

MINISTRY OF SOCIAL DEVELOPMENT
Vancouver Island/Sunshine Coast

Anette, a single parent, was designated as a Person with Persistent Multiple Barriers (PPMB) for the past two years. Under this program she received a higher rate of income assistance, and an earnings exemption of \$500 a month. She contacted us after learning she was given only three weeks warning to renew her PPMB designation. She submitted a medical form as the ministry asked, but it had not been processed before the end of the month, and when she contacted us her income assistance had been reduced and earnings from her part-time job had been deducted from the reduced cheque. She was left without enough money for food or rent.

It appeared the ministry had correctly followed part of its policy in identifying Anette's file for review, as all persons designated as PPMB are to be reviewed at least every two years. However, the policy also required the ministry provide three months notice of the PPMB review date, to allow time for recipients to complete a medical form and meet with an employment and assistance worker by phone or in person for a review. The review also involved updating an employability screening form, a checklist of job and training related activities, and an employment plan.

We investigated the fairness of the process used by the ministry to notify Anette about the PPMB review, including whether the relevant policies were followed. The ministry's records confirmed it did not provide three months notice prior to discontinuing the PPMB designation. It appeared that a written notification three months ahead was overlooked, and when the omission later came to staff's attention, written notice was not sent out due to a Canada Post labour disruption. Instead staff left a message with information about the review on Anette's answering machine. Anette heard the message and picked up a medical form to begin the review process.

The ministry confirmed it had received Anette's medical form and would contact her to complete the other review documents. The application would then be sent for review. The ministry said it would reinstate the PPMB rate and earnings exemption for three months to allow the review to be properly completed.

When the data doesn't match

MINISTRY OF SOCIAL DEVELOPMENT
The Lower Mainland

Jennie was upset when she called. She had no money and she was concerned about the impact on her children. Jennie said she was on income assistance and started receiving cheques from Canada Pension Plan (CPP) in June. She expected the June CPP amount would be deducted from her August income assistance cheque because there was a two month lag. However, Jennie called us when the Ministry of Social Development refused to issue her a July income assistance cheque.

Jennie said the ministry told her its computer showed she had received a CPP payment in May, which the ministry deducted from her July income assistance cheque. Jennie denied receiving a May CPP cheque and thought it unfair that the ministry was making her declare income she did not receive.

We investigated whether the ministry followed an unreasonable procedure when it deducted a CPP payment from her income assistance if she did not receive a CPP payment in May. The ministry told us it has a computer data match with CPP. We understood this meant that the CPP computer "talks" to the ministry computer

directly so that the ministry knows what CPP payments are made to clients. In Jennie's case, the ministry said there were several CPP payments on its system and it was relying on the data match information.

We spoke to Jennie about what information she may be able to provide to the ministry. Jennie said she had sent her bank statements to the ministry that showed she did not get a May CPP payment. After reviewing her bank statement and the printout of transactions received from the ministry, we discussed Jennie's July income assistance entitlement with a manager at the ministry.

The manager confirmed the data match with CPP showed Jennie had received a CPP payment in May, the amount of which was deducted from her July income assistance cheque. The ministry then reviewed her bank account information that showed no May CPP payment. With Jennie's permission, a ministry worker contacted CPP directly and found out that there was a data match error. CPP confirmed to the ministry that Jennie did not receive a CPP payment in May. The ministry then made a decision that she should receive July income assistance and issued a cheque right away.

Nowhere to go

MINISTRY OF SOCIAL DEVELOPMENT

The North

June is a single mom with a teenage son. When June called us, she said she had lost her housing and they had nowhere to go. June said she asked the ministry for a damage deposit to secure new housing and the ministry told her that because she had received previous damage deposits it could not help her. June said she did not know what to do and was unable to get information from the ministry that might help her.

We contacted the ministry's manager of community relations and service quality and discussed June's situation. We reviewed with him the legislation governing the ministry's ability to issue multiple damage deposits. He agreed that in circumstances where someone is homeless or at risk of becoming homeless, the legislation allowed for issuing another damage deposit to June.

The manager contacted the local employment and assistance worker about June's circumstances. That same day, an additional damage deposit was issued to June. The steps taken by the ministry to review June's particular circumstances ensured that she and her son were able to secure housing.

Addressing accessibility problems

MINISTRY OF SOCIAL DEVELOPMENT

The Lower Mainland

Kathy had severe anxiety and received disability assistance. She explained that due to her disability, she sometimes experienced panic attacks when she went to the ministry office. She said she had discussed this with the supervisor, and he said that to accommodate her health concerns, her file would be transferred to a third party administrator (TPA) office. Kathy said she had been pleased with this decision as she thought that the TPA would be better able to work with her.

Shortly after this decision was made, Kathy got a letter from the ministry stating that she was no longer allowed to contact the ministry due to her behaviour. Kathy said the letter did not reflect her conversation with the supervisor and she was upset that she was being labelled as someone with unacceptable behaviour. Kathy also said

that after her file was transferred, the TPA office had moved to an area of the city that was not very accessible to her. She said this created problems because she had to travel to the office each week to pick up an assistance cheque.

We discussed Kathy's concerns with the supervisor. He acknowledged that Kathy had received a form letter which did not reflect that Kathy's file was transferred to accommodate health issues. The supervisor spoke with Kathy to clarify her concerns and how to address the accessibility problem Kathy had identified. Kathy later told us that the supervisor had agreed to transfer her file back to the ministry office. Kathy was pleased that we had been able to help her resolve her concerns.

Settling into new housing

MINISTRY OF SOCIAL DEVELOPMENT

The Lower Mainland

Andrea had recently moved into supported housing. She said she wanted to buy a few items for her room but was not able to because her disability funds were issued to her on a weekly basis, not on the usual monthly basis. Andrea explained that because her funds were issued weekly, she was not able to save enough money to buy the items she needed. She said she wanted to have her funds issued monthly but had not been able to achieve that by herself. She said she did not understand why the ministry would not agree to her request.

We contacted the ministry about Andrea's request to determine the ministry's reasons for denying her request. The ministry agreed to review her case and after doing so, confirmed that Andrea was now receiving her funds on a monthly basis. Ministry staff also told us that if Andrea was not able to buy all of the items she needed for her new housing, she could submit a request for assistance to the ministry and it would provide funds if possible.

Andrea was very pleased she was now receiving her full assistance in one monthly payment and as a result, she was able to buy some items for her new housing.





CASE SUMMARIES

Local Government

Improving public input process

CULTUS LAKE PARK BOARD

The Lower Mainland

Our office received a number of related complaints about the process followed by the Cultus Lake Park Board in deciding to increase seasonal camping fees at Sunnyside campground. The people who contacted us were concerned they were not adequately consulted and did not have a meaningful opportunity to express their interests and concerns before the Board decided to increase camp fees. Some of the people who contacted us were also concerned about an administration fee withheld from their security deposit refund when they chose not to rent a seasonal site due to the increased fees.

The Park Board advised that in 2010 it had to make late decisions about its budget due to the financial situation at the time as well as other factors. The Board explained that this resulted in a series of budget meetings with limited notice between the meetings. The Board pointed out that the fee increase was one of a number of initiatives it took to overcome a \$400,000 deficit and balance its budget. Other initiatives included staff layoffs, a 5% decrease in wages and salaries and a 5% decrease in overall expenses.

Our focus was on the fairness of the process that was followed in making the decision. After considering the information provided by the Park Board, we still questioned whether seasonal campers and others had adequate notice, adequate

information and adequate opportunity to make submissions in advance of the Board's final decision to increase fees. Following a period of consultation with us, the Park Board confirmed that in the future, specific information would be made publicly available in advance of public meetings when matters of particular interest such as fee increases or other charges were considered. This greater commitment to transparency and consultation was consistent with public statements that Board members had made. Based on the Board's commitment, we were satisfied that issue had been addressed. However, we continued to investigate concerns about an administration fee charged to individuals who decided not to return the next year.



When campers provided security deposits for the coming year they were given a receipt that showed camping fees were subject to change without notice. When staff took deposits in 2009/10, the increase in camping fees had not been approved by the Park Board. Therefore, staff was not aware of the fee increase and was not in a position to communicate information on the fee increases to seasonal campers. Refunds were provided, however an administration fee was charged when a camper decided not to return the next year.

We observed that Sunnyside Campground bylaw states that an administration fee would be charged on seasonal site deposit refunds made after March 31. We determined however, that in practice the administration fee was charged on all refunds. We were told there was a typographical error in the Sunnyside Bylaw and that the intention had always been that after March 31 there would be no refund. Prior to March 31 a refund would be provided with a \$25 administration fee being charged. We understood the provision was intended to read "an administration fee will be charged on cancellations made before this date."

Despite the fact that the bylaw might not have been written as the Board intended, we expressed our view with the Board that bylaws apply as they are written and if necessary the bylaw could be amended. Following consultation, the matter was taken back to the Board for a decision on whether to refund the administration fees that were charged to individuals who requested the return of their deposit prior to March 31. The Board agreed that the administration fee would be refunded to the affected seasonal campers. As a result of this action, we closed our file.

Shedding light on closed meeting provisions

THE VILLAGE OF TAHSIS

Vancouver Island/Sunshine Coast

Frank raised concerns about the process used by the Village of Tahsis Council to repeal the Village of Tahsis building bylaw. He said that the building bylaw was rescinded in a Council meeting that was closed to the public. Frank believed that it was unlawful for Council to rescind a bylaw behind closed doors.

Tahsis advised that Council passed two resolutions at a council meeting that was closed to the public, repealing the Village of Tahsis Building Bylaw No. 525, 2006.

We questioned the appropriateness of repealing the bylaw in a closed meeting and asked whether Council should have provided public notice of the proposed changes and voted on the bylaw rescinding the building bylaw in an open public meeting. We pointed out to Tahsis that it appeared that under section 137 of the *Community Charter*, the power to repeal a bylaw must be exercised by bylaw. Further, section 89 (2) of the *Community Charter* states that a Council must not vote on the reading or adoption of a bylaw when its meeting is closed to the public. We questioned whether the process used by Tahsis to rescind the building bylaw was consistent with the *Community Charter*.

After several discussions with the chief administrative officer and the solicitors for Tahsis, Tahsis staff undertook to resolve this matter by preparing for Council's consideration a bylaw to repeal the Village of Tahsis Building bylaw. Tahsis staff also indicated that Council would consider and give readings of the bylaw at a council meeting that was open to the public and agreed to provide the public with the advanced notice.

We looked at whether the regional district was interpreting its bylaw correctly and whether it was fair for the regional district's notification of a gravel pit application to be so limited when many people may believe they are affected. We also questioned whether it was fair that Joan was not notified of the meeting after being assured she would be.

Neighbours want to be notified

REGIONAL DISTRICT OF CENTRAL KOOTENAY

The Interior

Joan was concerned about an application made for a gravel pit that was to be operated on a nearby property. She was worried about the impact on her property as well as the effect on the environment. She contacted the regional district and was told she would be notified when the regional district's board would be considering the gravel pit application. The next she heard about it was from a neighbour who told her the gravel pit application had been approved. She called the regional district and was told she had not been notified about the meeting because she did not live within 100 meters of the property where the gravel pit was proposed. Joan thought the regional district had handled this issue unfairly and contacted our office.

We reviewed the regional district's bylaw which did not refer to notifying property owners within 100 meters. We asked the regional district about this and it responded by saying it interpreted the bylaw as allowing it to notify property owners "adjacent" to the property with the proposed gravel pit. According to the regional district's interpretation, not only would Joan not have been notified, but others who were notified should not have been.

We looked at whether the regional district was interpreting its bylaw correctly and whether it was fair for the regional district's notification of a gravel pit application to be so limited when many people may believe they are affected. We also questioned whether it was fair that Joan was not notified of the meeting after being assured she would be. The regional district agreed to apologize in writing to Joan. In the letter to Joan, it also informed her that it would review its gravel pit bylaw, in terms of the notification process.

After its review, the regional district changed its bylaw so that it could give notice of a gravel pit application to property owners at any distance if it seemed appropriate. It also added a requirement that an applicant place an ad in a newspaper informing the community of the proposed gravel pit and giving people the opportunity to provide input to the regional district before it makes a decision on the application. These changes meant that in the future, a person in Joan's position could be notified of a gravel pit application and have the opportunity to provide input if she had concerns.



Seniors

Change to law benefits tax situation for seniors

MINISTRY OF FINANCE

Vancouver Island/Sunshine Coast

Mr. Anderson called us with a very sad tale. His wife owned the family home and had deferred property taxes for many years. When his wife developed Alzheimer's she moved to a care home for seniors with dementia. As she was no longer living in the family home, the Ministry of Finance told Mr. Anderson that his wife could no longer defer the property taxes.

Mr. Anderson knew he could qualify for property tax deferment if even one per cent of the home was transferred to his name. However, Mr. Anderson and his wife had agreed years before she got sick that the home would be left to their children. Mr. Anderson felt that changing the arrangement would be a betrayal of that agreement because he would be unable to explain it to his wife. Mr. Anderson said neither he nor his wife knew that the deferment agreement would be cancelled if she became too ill to reside at home. He did not understand how the ministry reached the decision that the agreement was no longer valid. We investigated whether the ministry had provided an adequate explanation of its decision to Mr. Anderson.

We learned that the law clearly required a home owner live in the home to be eligible for property tax deferral. There was no discretion in this requirement. We confirmed that this information was on the original form signed by Mrs. Anderson as well as on renewal applications she signed each year. We learned the ministry had not cancelled the deferment agreement with Mrs. Anderson, but had determined that further deferment was not possible once she, as the owner, had moved into a care home. However, the property taxes that had already been deferred did not need to be repaid until the property transferred to someone else or was sold.

Our investigation found that the ministry made significant efforts to explain its decision to Mr. Anderson in several letters to him. The ministry also considered Mr. Anderson's argument that his wife should be considered as continuing to live in the family home. The ministry contacted the care home and learned that Mrs. Anderson needed to spend most of her time at the care home.

One of the reasons Mr. Anderson was upset was even if he did transfer some of the home into his name, all of the taxes deferred by Mrs. Anderson would have to be paid back before he could start deferring them.

We concluded that the ministry had considered Mr. Anderson's specific situation and had communicated to him clearly and accurately why he could not benefit from this program. However, while we were investigating, the applicable law changed. The law now allowed Mr. Anderson to add his name to his wife's deferral agreement if he became part owner of the property which meant that the deferred property taxes would not have to be paid back until the property was sold or transferred to someone else. The ministry wrote to Mr. Anderson about this change and explained how it could resolve the situation for him.



Getting rights information right

VANCOUVER ISLAND HEALTH AUTHORITY

Vancouver Island/Sunshine Coast

Gabby called us because she was concerned about the way her 87 year old mother was involuntarily admitted to a hospital. She was particularly concerned the hospital had not given her mother information about her rights as was required by law.

We investigated whether the Vancouver Island Health Authority (VIHA) used a fair process when it admitted Gabby's mother. Gabby's mother should have been verbally informed and provided written notification of her rights promptly upon admission. Our investigation showed the hospital had not provided Gabby's mother with verbal advice about her rights until three days after her admission and she was not provided written information regarding her rights until four days after her admission.

Following a series of exchanges with our office, VIHA acknowledged that the way it treated Gabby's mother had not met the standard set in its own policy or the requirements of the *Mental Health Act*. It agreed the time it took to provide Gabby's mother with verbal and written information about the reasons for her involuntary detention was neither reasonable nor fair.

VIHA advised that Gabby's mother's experience had identified procedural gaps in circumstances where a patient was involuntarily admitted to a medical/surgical type unit as Gabby's mother had been. To address those gaps and to ensure a similar situation would not happen again, VIHA committed to taking a number of measures, including:

- Alert staff to the existing policy and its applicability for all clients
- Revise the current policy to confirm its application across the health authority
- Prepare and implement communications and education to support the new policy
- Develop specific educational and support structures
- Consult with other health authorities in B.C. to seek further opportunities for improvement

Although its actions to address the identified deficiencies could not remedy the inadequacies that occurred in the case of Gabby's mother, they were designed to prevent a repeat of those deficiencies which would assist future patients.



Paying what's fair

VANCOUVER COASTAL HEALTH AUTHORITY

The Lower Mainland

Rose complained about the Vancouver Coastal Health Authority's (VCHA) response to her concerns about her mother's residential care rates. Rose said her mother had to pay facility fees that were not taken into account by VCHA in its review of her request for a temporary rate reduction. Rose said she raised her concerns with her MLA and others, but was not able to resolve them.

We investigated whether VCHA had followed a fair procedure in responding to Rose's concerns. We were concerned that the fee did not appear to be optional, and that the information provided by the health authority regarding the purpose of the fee indicated it was allocated not only for services to clients but for facility improvements, in this case the purchase of an emergency generator. This did not appear to fall under the Ministry of Health's policy for allowable charges. VCHA acknowledged that this fee was not consistent with

ministry policy regarding permitted optional charges. We asked VCHA to review the matter and to consider whether reimbursement for some portions of the fee might be appropriate in the circumstances.

VCHA later confirmed it had followed up with the facility to ensure the monthly facility fee would be made optional and would comply with ministry policy concerning additional charges. An agreement was also reached to reimburse residents who had been paying the fee in an amount equivalent to the portion of the fee allocated for an emergency generator. Because VCHA had taken steps to ensure the facility's monthly fees were in compliance with ministry policy and to ensure residents were reimbursed for fees charged for facility improvements, we considered the complaint settled.

Fees charged to involuntary residential care resident waived and reviewed

VANCOUVER ISLAND HEALTH AUTHORITY

Vancouver Island/Sunshine Coast

Murray contacted us after Vancouver Island Health Authority (VIHA) staff used the *Mental Health Act* to involuntarily admit Joan, his wife of 50 years, to a mental health facility and then transfer her to residential care.

At the time Joan was admitted as an involuntary patient, she and Murray had been living in a makeshift suite in the home of one of their daughters. Since Joan was recently discharged from the hospital, members of VIHA's Elderly Outreach Service team had come to visit the couple. The team assessed the suite as unsafe and believed the couples' living environment put Joan at risk and that she should move to residential care. Joan did not have the legal capacity to consent to admission and had not appointed a representative who could make that decision on her behalf. Although he was not her legal representative, Murray wanted to continue to care for Joan at home.

A doctor with VIHA certified Joan as an involuntary patient under the *Mental Health Act* and admitted her to a mental health facility. Then, with the authorization of a second doctor, she was promptly put on extended leave under that Act and then placed in a residential care facility. After transferring Joan on an involuntary basis to residential care, VIHA assessed a user charge for Joan and the facility began to charge her fees for those services.

Murray thought it was unfair to hold her in the residential care facility against her will and charge fees. Murray was concerned that his visits with his wife were restricted and he did not know why. Also, Joan was not placed in the community where he lived, which made visiting her very difficult for him. We investigated the fairness of VIHA's procedures in regards to Joan's residential care, including the charging of fees, the restrictions on Murray's visits to the facility and her placement outside of the community where Murray lived.

VIHA agreed to not charge Joan fees and also indicated that it was reviewing its practice in this area. Murray's visits to his wife resumed following discussions with the facility and his wife's psychiatrist. After VIHA learned of the difficulties Murray was having as a result of needing to travel to visit Joan, she was given the highest transfer priority and about a month later was transferred to the community where Murray lived.

We investigated the fairness of VIHA's procedures in regards to Joan's residential care, including the charging of fees, the restrictions on Murray's visits to the facility and her placement outside of the community where Murray lived.





CASE SUMMARIES

Work and Business

Lump payment of WCB pension award

WORKERS' COMPENSATION BOARD (WorkSafeBC)

The Interior

Approximately ten years ago, George was awarded a Workers' Compensation Board monthly pension as a result of injuries from a workplace accident. George had decided he would prefer to have his WCB pension benefit paid out as a lump sum rather than on a monthly basis and so later asked WCB for commutation of his pension. WCB denied his request because of a policy in place ten years ago when the pension was awarded that did not permit WCB to consider the merits of his application. George came to us because he thought it was unfair that his application for a lump payment was not considered on its merits.

Our investigation focused on the fairness of WCB's response to George's request. We carefully reviewed the policies regarding commutation of pensions and noted that the policies in question were amended about nine years ago so that people like George, who were asking for a lump sum of their monthly pensions, no longer had their applications refused outright without consideration of the merits of the person's individual circumstances. We were able to identify a number of cases where people applying for commutation beyond ten years ago had successfully appealed their cases to the WCB Appeal Division. These people had their applications reconsidered on the merits.

As a result of our investigation, WCB approved amendments to the policy that was in effect before 2002 to eliminate the restrictions that had caused the refusal of George's request for commutation of his pension. Consequently, George was able to make a new request that would be considered on the merits. If George was not satisfied with the new decision, he would have the ability to pursue an appeal. George was pleased with the outcome of our investigation and planned to resubmit his application for commutation of his pension. He was also pleased that by bringing his concerns to our attention, other individuals in his situation would benefit.

Why are reasons important?

MINISTRY OF FORESTS, LANDS AND NATURAL RESOURCE OPERATIONS

The Lower Mainland

Kevin called us with a complaint about the former Integrated Land Management Bureau, now the Ministry of Forests, Lands, and Natural Resource Operations. Kevin said his company had entered into a licence of occupation with the Crown in 2002. Kevin received a trespass notice in 2010 that indicated his company had

committed an act or default by which its licence may be terminated. The trespass notice showed that his licence had been cancelled in 2007 and that he was required to remove his property from Crown land.



The trespass notice said that Kevin could dispute the notice by writing to the ministry. He disputed the notice and the ministry wrote back with the decision resulting from the review. Kevin came to our office because he believed the review process conducted by the ministry failed to consider the evidence in his submissions.

We investigated whether the ministry fairly reviewed Kevin's dispute of the trespass notice. After examining Kevin's submissions and the ministry's decision letter, we had questions about the adequacy of the reasons provided by the ministry. Fairness requires an adequate explanation regarding the rationale for the decision. In general, the explanation or reasons should be sufficiently detailed to enable a person to understand the factors considered by the decision-maker and the rationale behind the decision.

We identified three relevant areas of dispute which had not been specifically addressed in the decision. At our request, the ministry provided Kevin with more extensive written reasons for the decision that included a discussion of the relevant points raised in Kevin's submissions.

Getting through the red tape for hiring

MINISTRY OF SOCIAL DEVELOPMENT

Vancouver Island/Sunshine Coast

Mary complained about the fairness of the process followed by the ministry to staff employment and assistance worker (EAW) positions on Vancouver Island. Mary said she understood she was successful in all phases of the hiring process, but was not offered a position. When she asked the ministry for reasons, the ministry said it was because it could not reach her second reference. As a result, the ministry considered that Mary was unsuccessful in the competition because she failed past work performance checks.

Mary was concerned she was never told there was a timeline for reference checks, nor did the messages left for her reference include any information about timelines. She said the ministry did not tell her at the time that it was unable to reach her reference, and did not ask if she could submit an alternate reference when the ministry was unable to reach the reference she initially offered.

We agreed to investigate the ministry's hiring process. In doing so we learned the ministry had consulted with the Public Service Agency and on the basis of information provided, the panel established a timeline to complete reference checks. The panel reported that it made effort to reach Mary's second reference without success and decided that sufficient efforts had been made to contact the reference. The competition was finalized and while Mary had been considered for a position, she was deemed unsuccessful because she failed past work performance checks.

The ministry acknowledged it did not advise her or her reference that a deadline had been established for completing reference checks. The ministry also confirmed that it did not call or email Mary to tell her that the panel was having difficulty reaching her second reference or invite her to provide an alternate reference or advise her of the deadline for reference checks.

In response to our investigation, the ministry agreed to complete the second reference check and to place Mary in the pre-qualified EAW pool if the reference was satisfactory. The reference check was completed and Mary is now in the pre-qualified EAW pool. We were satisfied that the ministry's response reasonably settled the complaint.

In response to our investigation, the ministry agreed to complete the second reference check and place Mary in the pre-qualified EAW pool.

As a result of our contact, Susan was provided with the information necessary to obtain payment of the holdback money. The ministry paid the money with interest, and sent Susan a letter of apology along with flowers.

Final payment with interest and an apology

MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE

The Lower Mainland

Susan complained to us about the Ministry of Transportation and Infrastructure. She believed there had been an unreasonable delay by the ministry in paying holdback money from a contract with the ministry, and it had not responded to her letters and questions as to what was required to get final payment. Susan provided us with this correspondence that dated back over eleven months.

We notified the ministry we were investigating whether there had been unreasonable delay in payment. We asked questions of the ministry, reviewed contract documents, and considered the ministry's policies and procedures on holdbacks and payment requirements.

As a result of our contact, Susan was provided with the information necessary to obtain payment of the holdback money. The ministry paid the money, and sent Susan a letter of apology along with flowers. The ministry acknowledged there were a number of factors that contributed to the delay. As a result the ministry committed to improving the process to provide checks and balances, across its business units, to ensure that completion paperwork (for contracts) is finalized in a reasonable period of time. This would also include clarifying the process for contractors at the beginning of a contract.

Due to the length of time it took the ministry to make the final payment, our office pursued whether the ministry would pay interest on the monies. We asked the ministry if it would pay interest and it agreed.

This is taking too long

WORKERS' COMPENSATION BOARD (WorkSafeBC)

Vancouver Island/Sunshine Coast

Fred came to our office after several years of waiting for WorkSafeBC to implement decisions made by the Review Division. He told us that apart from waiting for the implementation decisions, he was frustrated with the case manager's handling of his file. He said his case manager kept asking him for documents he had already sent in and seemed to take months to do any work on his file.

Based on Fred's complaint, we investigated whether there was an unreasonable delay in WorkSafeBC implementing the Review Division decisions; whether the case manager communicated with Fred in a timely way; and whether WorkSafeBC followed a fair procedure when it gathered the information for the Review Division implementations.

We requested and reviewed Fred's claim file and the relevant WorkSafeBC policies and procedures. We then consulted with WorkSafeBC about our concerns and asked what steps it could take to implement the decisions, the reasons for the potential delay and why there were multiple information requests.

Soon after our consultation with WorkSafeBC, Fred received the implementation decision and addressed the matter with the staff members involved. We also asked WorkSafeBC to explain to Fred what had happened. In response, WorkSafeBC provided him with a written apology, an explanation about what had occurred to slow the progress on his file, and what improvements it had made for future claim handling, which included creating a new claims management system. Fred had asked that WorkSafeBC assign him to a new case manager. After we asked WorkSafeBC staff to look into the request it agreed to assign him to a new case manager and to develop a protocol on when such an assignment would be made

on further files. Fred was pleased that he would be transferred to a new case manager because his claim file with WorkSafeBC was ongoing and he looked forward to a fresh start. We followed up with WorkSafeBC to confirm that protocol on assignment was developed and is in place.

Importation steps

INSURANCE CORPORATION OF BRITISH COLUMBIA

The Interior

Craig called representing a car dealership complaining ICBC would not reimburse them for the cost of re-importing a vehicle. Craig explained that the dealership had bought a used Nissan from a customer as a trade in. Craig thought the vehicle had been correctly imported into Canada because it had been issued a B.C. registration. Craig believed a B.C. registration could not be issued unless a Registrar of Imported Vehicles (RIV) inspection had occurred.

Craig said the dealership later discovered the vehicle had not been properly imported into Canada in 2006. It was Craig's view that the B.C. registration was issued by ICBC in error because the RIV had not completed its inspection process. Craig spoke to an ICBC representative about re-importing the Nissan properly. He believed ICBC supported this idea and was willing to reimburse the costs. When the re-importation process was completed, Craig went to ICBC for reimbursement and was told by ICBC staff that it would not reimburse him due to a limitation period.

We investigated whether ICBC followed an unreasonable process if it registered an imported vehicle without a RIV inspection and then refused to reimburse the complainant who had to fix the error. We spoke with a manager in the vehicle registration and licensing area who confirmed the original importation did not follow the rules and that the autoplan broker should not have issued a B.C. registration. We discussed Craig's view that he was trying to correct an error and that he believed ICBC had agreed to pay. We encouraged ICBC to look into the matter and decide whether it was willing to reimburse the dealership under the circumstances. When we next spoke to staff at ICBC, they told us they had decided to reimburse the dealership for the full amount of re-importation fees and that ICBC would be issuing a cheque.

Taxed

MINISTRY OF FINANCE

The Interior

Kurt, a businessman, complained to us about the Ministry of Finance. He said the ministry would not refund taxes that had been misapplied when he bought a contracting business. He said the tax he paid was applied to Tax Paid on Designated Property (TDPD) when it should have been paid to the Harmonized Sales Tax (HST), which he would have been eligible to have refunded. He said the ministry told him it would only refund the misapplied tax if he first paid the HST and submitted proof he had done this. He thought this was unfair.

Our office notified the ministry that we started an investigation into whether it had used a fair procedure in denying the tax refund. In the course of our investigation we found the ministry had not told Kurt that he could make application to the ministry for a refund. The ministry acknowledged it should have told him about the process. Kurt agreed to do the application, and once the ministry reviewed the application, it agreed to refund the misapplied tax to Kurt. Based on this outcome we closed our file.

We encouraged ICBC to look into the matter and decide whether it was willing to reimburse the dealership under the circumstances. When we next spoke to staff at ICBC, they told us they had decided to reimburse the dealership for the full amount of re-importation fees and that ICBC would be issuing a cheque.





CASE SUMMARIES

Other

Policy change benefits others

FAMILY MAINTENANCE ENFORCEMENT PROGRAM, MINISTRY OF JUSTICE

The Lower Mainland

Sandra contacted us because she was unhappy with the Family Maintenance Enforcement Program (FMEP) response to her concerns about enforcement of her support order.

Sandra had not had contact with her three children for many years, but she was employed and had regularly paid child support over that time through FMEP. Her disagreement with FMEP arose when enforcement continued even after her children turned 19. While child support orders may contain direction or restrictions on payments after age 19, Sandra's order was silent on this. In such cases, child support obligations continued as long as the child remained a child of the marriage, which, under the *Divorce Act*, included those who were still under the parent's charge due to illness, disability or other cause. "Other cause" was generally taken to include post-secondary education. Sandra's children had gone to college after they turned 19 so were still considered children of the marriage, and enforcement continued. To assess continued eligibility, FMEP relied on information from the recipient once or twice a year about the children's circumstances.

When she contacted our office, Sandra said while she was no longer required to pay child support, she thought enforcement had continued for longer than correct. She said she believed that the recipient provided false information about the children's intentions to return to post-secondary education to FMEP, and FMEP had taken the recipient's word over hers without verifying the information. She said she had provided evidence to FMEP that she felt showed the children were not returning to school, but each time Sandra complained to FMEP, it directed her back to court to change her order. Sandra told us she could not afford to go back to court.

We investigated whether FMEP had followed a reasonable procedure with respect to its enforcement of Sandra's order. While Sandra's evidence did not appear to prove that the children would not return to school, we learned that FMEP policy directed staff not to participate in verifying or substantiating information provided by a recipient, even where they had received conflicting information. The FMEP maintained that as it had no authority to compel a recipient to provide information, there was no purpose in trying to determine the accuracy of the information the recipient provided.

The *Family Maintenance Enforcement Act* did not appear to prevent FMEP from using discretion to decide whether it would enforce an order in circumstances like Sandra's, and it seemed reasonable to us that it base such decisions on accurate information which might be obtained by verifying information when required.

Our investigation of the complaint led to changes in FMEP's policy and standard letters with respect to enforcement of child support for children over age 19. FMEP updated its policy to direct staff to consider information received from

payors and to verify information provided by recipients when required to continue monitoring and enforcing child support. The standard FMEP letter was updated to inform payors how to proceed should they have information about a child's circumstances that FMEP should know about. Other letters were updated to inform the payor that information sent in to FMEP would be reviewed when received. FMEP developed a form that a payor may use to provide written details that may affect enforcement.

These changes made to policy enabled FMEP to seek corroboration of statements from a recipient when required to make informed decisions about whether to continue enforcing child support. The changes to the FMEP letters invited payors to provide information that may affect enforcement actions. As FMEP had already ceased enforcing Sandra's child support order, the changes did not benefit her directly. However, we concluded that the changes that were put in place would benefit future payors in similar situations.

Sudden stops

TRANSLINK

The Lower Mainland

Tabitha was thrown to the floor of the SkyTrain she was riding when it performed a sudden emergency braking (SEB) manoeuvre. She sustained rib and leg fractures as result of the incident. Tabitha made a claim with TransLink for her injury. She provided a statement and spoke to an adjuster several times. She said the adjuster gave her the impression her claim would be settled. Later, Tabitha received a letter saying her claim was denied because of TransLink's position that there was no negligence because the sudden emergency braking manoeuvre was part of the operation of TransLink's emergency braking system.

Tabitha understood she had the option of applying to the court to resolve her claim dispute. However, Tabitha also expressed concerns about how TransLink's claims process and the adjuster had handled her claim. We investigated whether TransLink's SEB claims adjudication process was arbitrary or unfair.

We communicated with TransLink staff about their claims handling and adjudication practices. We got a copy of TransLink's file on Tabitha's claim and reviewed the investigative and claims procedure undertaken in her case. We asked about TransLink's adjudication process for SEB claims and got a copy of TransLink's claims department procedures manual. We asked TransLink about the process it undertakes when it receives a SEB claim and the information provided to the claimant about the process.

We received more information from TransLink regarding its no negligence position in SEB claims. We asked TransLink about the outcome of other SEB claims that TransLink had adjudicated in the past five years. We spoke to a safety analyst at TransLink to understand the operation of SkyTrain's emergency braking system and got computer records on the incident that injured Tabitha.

We consulted with TransLink about three main areas:

- The substance of TransLink's communications with individual SEB SkyTrain claimants about benefit entitlement and the role of the adjuster
- The information TransLink provides the public regarding different benefit entitlement depending on the mode of transportation
- The adequacy and consistency of TransLink's claims investigative policies and procedures and the transparency of the process to claimants

As a result of our discussions, there was an improvement in TransLink's SEB claims processes, including:

- *The development of two letters that will be sent to claimants at the beginning of their SEB claims that will improve clarity in the process*
- *Information on TransLink's website about different insurance coverage and how to file a claim*
- *Development of more rigorous claims procedures for handling SEB claims in the future*

As a result of our discussions, there was an improvement in TransLink's SEB claims processes, including:

- The development of two letters that will be sent to claimants at the beginning of their SEB claims that will improve clarity in the process
- Information on TransLink's website about different insurance coverage and how to file a claim
- Development of more rigorous claims procedures for handling SEB claims in the future

Where's my bus pass?

BUS PASS PROGRAM, MINISTRY OF SOCIAL DEVELOPMENT

The Lower Mainland

John contacted us in late February and explained he had not received his annual bus pass. He said he had applied and paid for the annual bus pass in mid-November. He had written to the ministry in December, January and February explaining he had not received his bus pass but he had not received any responses to his inquiries.

We investigated whether the ministry had unreasonably delayed in providing a bus pass to John and whether the ministry had followed an unreasonable procedure by not responding to his written inquiries. The ministry's manager of community relations and service quality reviewed the matter and confirmed that the ministry had printed and mailed the annual bus pass to John in late November. She said staff had attempted to respond to a letter John wrote in January by calling him. She said that because John did not appear to have a current telephone number, staff was not able to contact him.

The manager noted that another letter that John had written had come to their attention and as a result, staff had written to John to inform him that he would have to complete a form and pay a \$10 replacement fee for the annual bus pass. The manager explained that if a person does not contact the ministry by January 31 about not receiving their bus pass, a \$10 replacement fee is assessed.

In John's case, the ministry had received a letter from John prior to January 31st and the manager agreed that John should not have to pay the replacement fee. She also agreed that staff should have written to John when they were not able to contact him by telephone. The manager agreed to send a letter to John by courier that day to inform him that a replacement annual bus pass would be printed and sent to him immediately with no replacement fee. In addition, the manager said she would follow up with supervisory staff to implement a protocol for communicating with their clients, including writing to clients when they cannot be contacted by telephone.

Trail Blazing

MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE

Vancouver Island/Sunshine Coast

Nora and Joe complained to our office about the Ministry of Transportation and Infrastructure. They believed there had been a delay by the ministry in reopening a public road access to a trail system. The ministry had made previous commitments to do the required work, though the work was never completed. We were told that this impacted not only the couple but also the community as a whole.

Our office notified the ministry that we had started an investigation into whether there had been unreasonable delay in remedying the matter. The ministry explained it was in the process of getting a statutory right of way and once this was done it would be able to proceed with the required work. We monitored the situation to ensure the ministry carried through on its commitments in a timely manner.

The ministry completed the work and the road allowance was reopened. The community made a commitment to maintain the access with the use of volunteers. The couple later wrote to us expressing thanks on their behalf and that of the community.





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Statistical Overview of Work and Performance

The following pages detail a statistical evaluation of our office's work and performance between April 1, 2011 and March 31, 2012.¹

In fiscal 2011/12, our office dealt with 8,014 inquiries, requests for information, assistance or complaints. The majority of contact with our office was by telephone (6,598), followed by letters (696) and web-based forms (640).

Fifty-four per cent of the files opened involved complaints about provincial government ministries; 27 per cent involved complaints about provincial commissions, boards and crown corporations; seven per cent involved complaints about health authorities; and seven per cent involved complaints about local government authorities. The majority of the remaining five per cent involved complaints about self-regulating professions, schools and Boards of Education.

The Ministry of Social Development, Ministry of Justice (including former Attorney General, Public Safety and Solicitor General ministries), Ministry of Children and Family Development, ICBC and Workers' Compensation Board were our five most significant authorities in 2011/12.

Our Early Resolution Program continues to be a successful initiative. It redirected 256 files that would have previously been sent to investigation into a process that addresses and resolves problems within ten working days. A total of 1,631 individual investigative files were assigned to ombudsperson officers and they closed 1,658 files.²

Files awaiting assignment continue to be reviewed regularly and assigned as quickly as possible to an ombudsperson officer for action. On March 31, 2011 there were 147 open files on the wait list awaiting assignment.

A summary of files opened and closed by authority categories is included at the end of this section. A detailed breakdown by individual authority can be found at www.bcombudsperson.ca

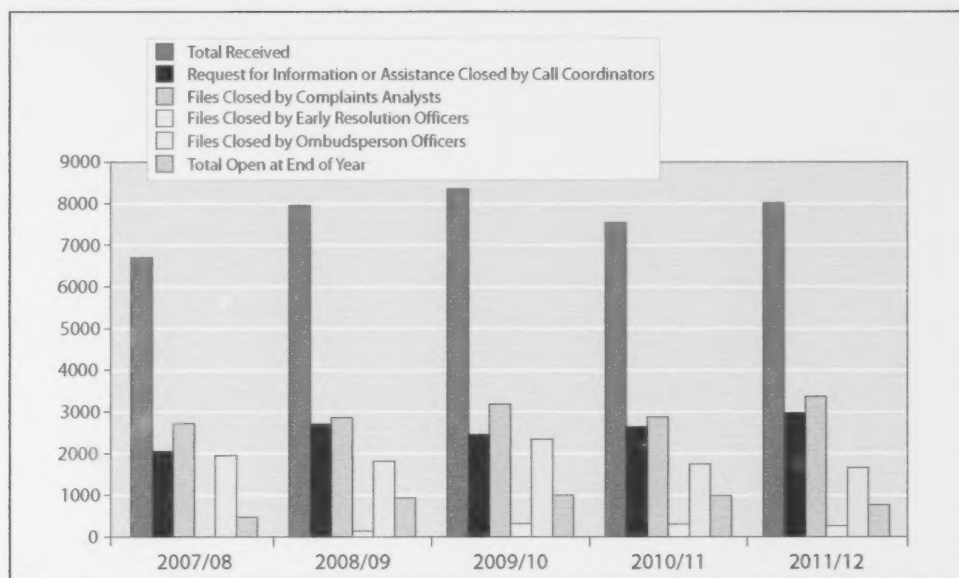


¹ This information should be read in conjunction with our Act, strategic plan, budget, and the rest of this annual report. Together these documents set out our office's mandate, plan resources and results. All of them are available on our website at www.bcombudsperson.ca

² Closed files include files from previous years.

^{*} The data contained in the following tables and charts may occasionally vary slightly from previous reports. In such cases, the figures given in the most current report are the most accurate.

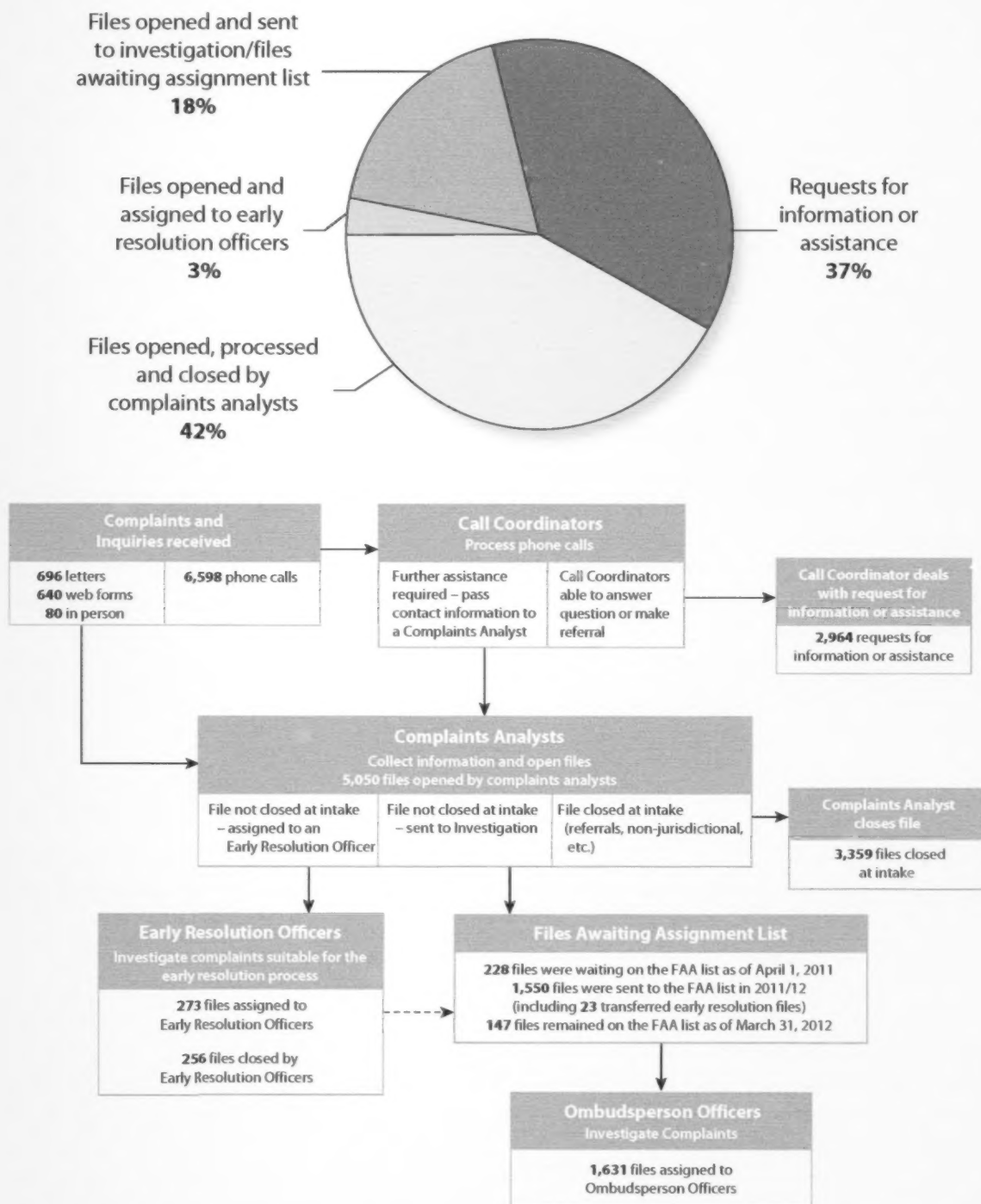
Work of the Office



| | 2007/08 | 2008/09 | 2009/10 | 2010/11 | 2011/12 |
|--|--------------|--------------|--------------|--------------|--------------|
| Open at the Beginning of the Year | | | | | |
| Open Files Assigned | 486 | 471 | 935 | 819 | 751 |
| Open Files Awaiting Assignment | 0 | 0 | 0 | 176 | 228 |
| | 486 | 471 | 935 | 995 | 979 |
| Complaints and Inquiries Received | | | | | |
| Requests for Information or Assistance | 2,044 | 2,698 | 2,453 | 2,629 | 2,964 |
| Files Opened | 4,655 | 5,255 | 5,891 | 4,901 | 5,050 |
| | 6,699 | 7,953 | 8,344 | 7,530 | 8,014 |
| How Complaints and Inquiries Were Dealt With | | | | | |
| Requests for Information or Assistance Closed by Call Coordinators | 2,044 | 2,698 | 2,453 | 2,629 | 2,964 |
| Files Closed by Complaints Analysts | 2,722 | 2,855 | 3,185 | 2,878 | 3,359 |
| Files Closed by Early Resolution Officers | 0 | 134 | 310 | 301 | 256 |
| Files Closed by Ombudsperson Officers | 1,950 | 1,816 | 2,336 | 1,739 | 1,658 |
| | 6,716 | 7,503 | 8,284 | 7,547 | 8,237 |
| Open at the End of the Year | | | | | |
| Open Files Assigned | 471 | 935 | 819 | 751 | 609 |
| Open Files Awaiting Assignment | 0 | 0 | 176 | 228 | 147 |
| | 471 | 935 | 995 | 979 | 756 |

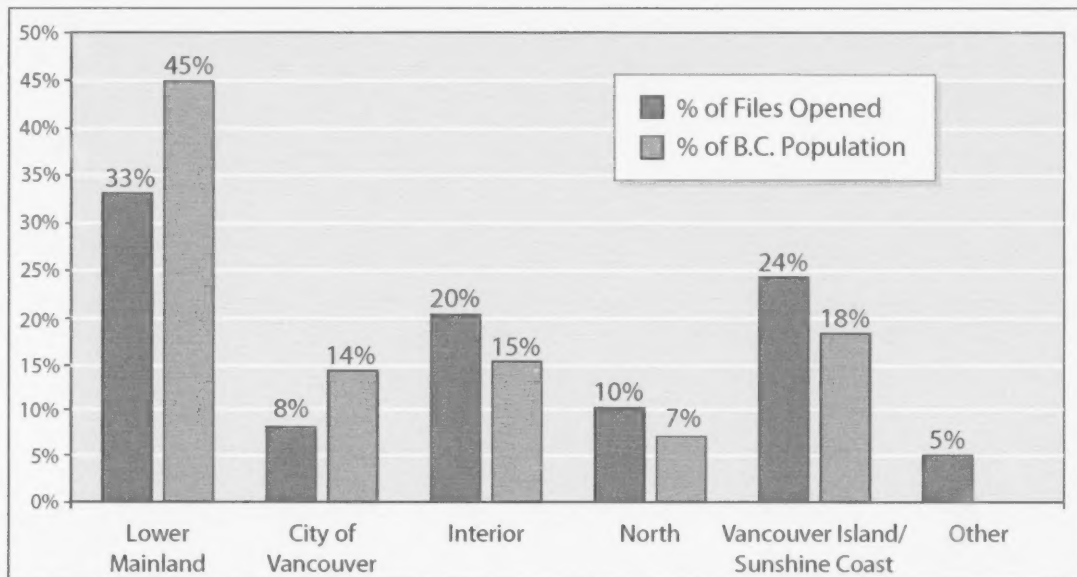
How We Dealt With Inquiries and Complaints in 2011/12

Total Received: 8,014



Files Opened – Regional Breakdown

Where Files Came From vs. Population



Regional Distribution



| | Files Opened |
|---------------------------------|--------------|
| Lower Mainland | 1,690 |
| City of Vancouver | 403 |
| Interior | 994 |
| North | 483 |
| Vancouver Island/Sunshine Coast | 1,234 |
| Unidentified | 53 |
| Out of Province | 193 |
| Totals | 5,050 |

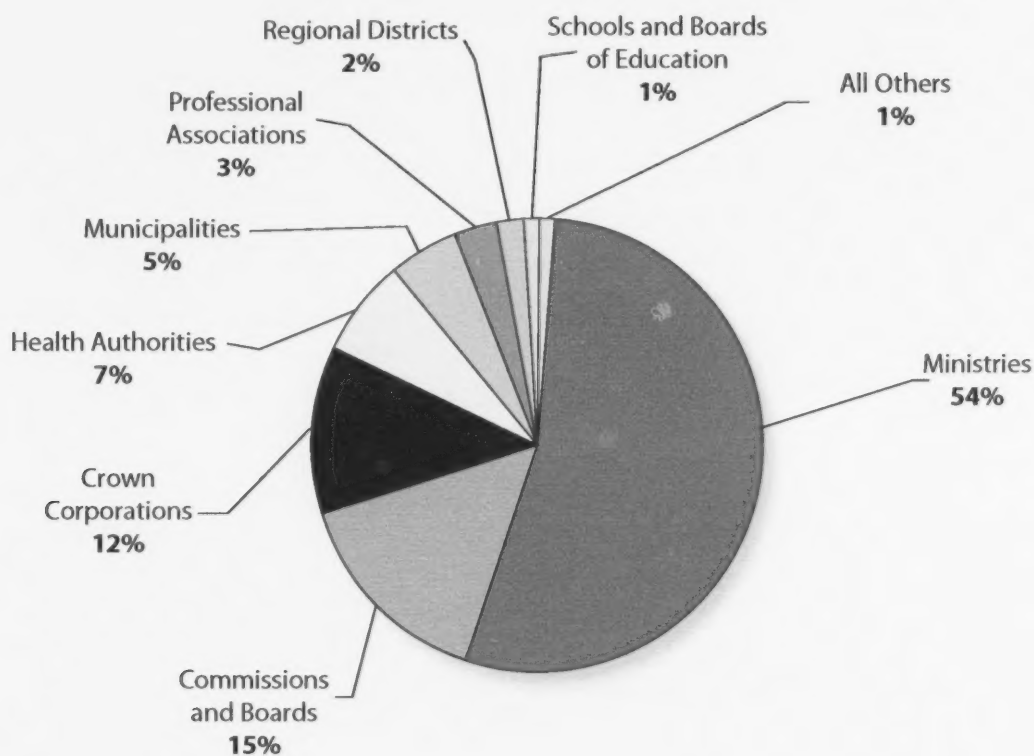
Files Opened – Electoral District

| # | Electoral District | Files Opened |
|----|---------------------------|--------------|
| 1 | Abbotsford-Mission | 62 |
| 2 | Abbotsford-South | 84 |
| 3 | Abbotsford West | 33 |
| 4 | Alberni-Pacific Rim | 68 |
| 5 | Boundary-Similkameen | 70 |
| 6 | Burnaby-Deer Lake | 45 |
| 7 | Burnaby-Edmonds | 53 |
| 8 | Burnaby-Lougheed | 10 |
| 9 | Burnaby North | 19 |
| 10 | Cariboo-Chilcotin | 57 |
| 11 | Cariboo North | 39 |
| 12 | Chilliwack | 57 |
| 13 | Chilliwack-Hope | 67 |
| 14 | Columbia River-Revelstoke | 51 |
| 15 | Comox Valley | 102 |
| 16 | Coquitlam-Burke Mountain | 20 |
| 17 | Coquitlam-Maillardville | 75 |
| 18 | Cowichan Valley | 81 |
| 19 | Delta North | 31 |
| 20 | Delta South | 13 |
| 21 | Esquimalt-Royal Roads | 81 |
| 22 | Fort Langley-Aldergrove | 44 |
| 23 | Fraser-Nicola | 46 |
| 24 | Juan de Fuca | 64 |
| 25 | Kamloops-North Thompson | 61 |
| 26 | Kamloops-South Thompson | 73 |
| 27 | Kelowna-Lake Country | 61 |
| 28 | Kelowna-Mission | 65 |
| 29 | Kootenay East | 36 |
| 30 | Kootenay West | 73 |
| 31 | Langley | 36 |
| 32 | Maple Ridge-Mission | 56 |
| 33 | Maple Ridge-Pitt Meadows | 76 |
| 34 | Nanaimo | 63 |
| 35 | Nanaimo-North Cowichan | 68 |
| 36 | Nechako Lakes | 51 |
| 37 | Nelson-Creston | 59 |
| 38 | New Westminster | 62 |
| 39 | North Coast | 16 |
| 40 | North Island | 72 |
| 41 | North Vancouver-Lonsdale | 35 |
| 42 | North Vancouver-Seymour | 20 |
| 43 | Oak Bay-Gordon Head | 44 |

| # | Electoral District | Files Opened |
|-------|-------------------------------|--------------|
| 44 | Parksville-Qualicum | 57 |
| 45 | Peace River North | 39 |
| 46 | Peace River South | 49 |
| 47 | Penticton | 89 |
| 48 | Port Coquitlam | 101 |
| 49 | Port Moody-Coquitlam | 30 |
| 50 | Powell River-Sunshine Coast | 49 |
| 51 | Prince George-Mackenzie | 51 |
| 52 | Prince George-Valemount | 111 |
| 53 | Richmond Centre | 12 |
| 54 | Richmond East | 12 |
| 55 | Richmond-Steveston | 10 |
| 56 | Saanich North and the Islands | 74 |
| 57 | Saanich South | 64 |
| 58 | Shuswap | 47 |
| 59 | Skeena | 31 |
| 60 | Stikine | 36 |
| 61 | Surrey-Cloverdale | 42 |
| 62 | Surrey-Fleetwood | 19 |
| 63 | Surrey-Green Timbers | 41 |
| 64 | Surrey-Newton | 34 |
| 65 | Surrey-Panorama | 54 |
| 66 | Surrey-Tynehead | 18 |
| 67 | Surrey-Whalley | 72 |
| 68 | Surrey-White Rock | 45 |
| 69 | Vancouver-Fairview | 50 |
| 70 | Vancouver-False Creek | 47 |
| 71 | Vancouver-Fraserview | 27 |
| 72 | Vancouver-Hastings | 30 |
| 73 | Vancouver-Kensington | 18 |
| 74 | Vancouver-Kingsway | 11 |
| 75 | Vancouver-Langara | 22 |
| 76 | Vancouver-Mount Pleasant | 54 |
| 77 | Vancouver-Point Grey | 22 |
| 78 | Vancouver-Quilchena | 10 |
| 79 | Vancouver-West End | 32 |
| 80 | Vernon-Monashee | 81 |
| 81 | Victoria-Beacon Hill | 130 |
| 82 | Victoria-Swan Lake | 60 |
| 83 | West Vancouver-Capilano | 27 |
| 84 | West Vancouver-Sea to Sky | 44 |
| 85 | Westside-Kelowna | 55 |
| Total | | 4,206 |

Note: These numbers do not include files involving people who live outside the province (193), or files for which we could not obtain a postal code (651).

Files Opened – Authority Distribution



| Ministries (54%) | | |
|---|-----|-----|
| Social Development | 34% | 830 |
| Justice (including former Attorney General and Public Safety and Solicitor General ministries) | 23% | 568 |
| Children and Family Development | 22% | 548 |
| Health | 6% | 141 |
| Energy and Mines | 5% | 115 |
| Finance | 4% | 101 |
| Forests, Lands and Natural Resource Operations | 2% | 40 |
| Labour, Citizens' Services and Open Government | 1% | 33 |
| Environment | 1% | 24 |
| Transportation and Infrastructure | 1% | 24 |
| Other Ministries | 2% | 39 |

| Commissions and Boards (15%) | | |
|--|-----|-----|
| Workers' Compensation Board | 39% | 266 |
| Public Guardian and Trustee | 17% | 113 |
| BC Housing | 12% | 84 |
| Workers' Compensation Appeal Tribunal | 4% | 24 |
| Employment and Assistance Appeal Tribunal | 3% | 19 |
| BC Utilities Commission | 2% | 16 |
| Human Rights Tribunal | 2% | 13 |
| Labour Relations Board | 2% | 13 |
| Private Career Training Institutions Agency | 2% | 13 |
| Emergency and Health Services Commission | 2% | 11 |
| Premier's Office | 2% | 11 |
| Other Commissions and Boards | 14% | 91 |

| Crown Corporations (12%) | | |
|------------------------------|-----|-----|
| ICBC | 51% | 274 |
| BC Hydro and Power Authority | 36% | 192 |
| Community Living BC | 7% | 36 |
| BC Assessment | 3% | 14 |
| BC Transit | 1% | 8 |
| Other Crown Corporations | 3% | 16 |

| Health Authorities (7%) | | |
|--------------------------------------|-----|----|
| Vancouver Island Health Authority | 26% | 87 |
| Interior Health Authority | 20% | 68 |
| Fraser Health Authority | 19% | 64 |
| Vancouver Coastal Health Authority | 16% | 54 |
| Provincial Health Services Authority | 14% | 47 |
| Northern Health Authority | 6% | 20 |

| Municipalities (5%) | | |
|-----------------------------|-----|-----|
| City of Vancouver | 10% | 21 |
| City of Victoria | 5% | 12 |
| City of Kelowna | 5% | 10 |
| City of Surrey | 5% | 10 |
| District of Saanich | 5% | 10 |
| City of Nanaimo | 3% | 7 |
| City of Prince George | 3% | 7 |
| District of Central Saanich | 3% | 7 |
| Other Municipalities | 62% | 135 |

| Professional Associations (3%) | | |
|--|-----|----|
| Law Society of British Columbia | 43% | 58 |
| College of Physicians and Surgeons of BC | 33% | 45 |
| College of Traditional Chinese Medicine Practitioners & Acupuncturists of BC | 3% | 4 |
| Institute of Chartered Accountants of BC | 3% | 4 |
| Other Professional Associations | 18% | 25 |

| Regional Districts (2%) | | |
|--------------------------|-----|----|
| Nanaimo | 15% | 11 |
| Capital | 11% | 8 |
| Metro Vancouver | 8% | 6 |
| Central Kootenay | 8% | 6 |
| Other Regional Districts | 58% | 42 |

| Schools and Boards of Education (1%) | | |
|--------------------------------------|-----|----|
| School District 36 (Surrey) | 10% | 8 |
| School District 41 (Burnaby) | 8% | 6 |
| Other School Districts | 82% | 52 |

| All Others (1%) | | |
|-----------------------|-----|----|
| Colleges | 36% | 24 |
| Universities | 30% | 20 |
| Improvement Districts | 19% | 13 |
| Islands Trust | 9% | 6 |
| Libraries | 4% | 3 |
| Parks Boards | 1% | 1 |

*Percentages in each category may not always add up to 100 per cent due to rounding.

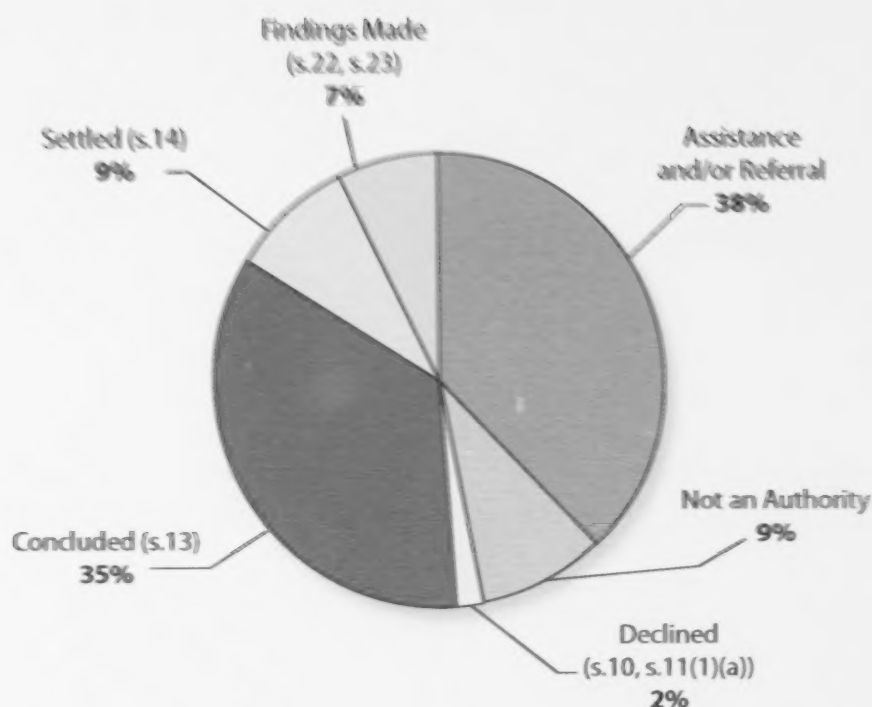
Files Opened – Significant Authorities

| | | 2010/11 | 2011/12 |
|----|---|--|--|
| | Authority | % of Total Jurisdictional Files Opened | % of Total Jurisdictional Files Opened |
| 1 | Ministry of Social Development | 20.4% | 18.1% |
| 2 | Ministry of Justice | 11% | 12.4% |
| 3 | Ministry of Children and Family Development | 13.6% | 12.0% |
| 4 | ICBC | 6.5% | 6.0% |
| 5 | Workers' Compensation Board | 6.2% | 5.8% |
| 6 | BC Hydro and Power Authority | 2.0% | 4.2% |
| 7 | Ministry of Health | 3.2% | 3.1% |
| 8 | Ministry of Energy and Mines | 0.2% | 2.5% |
| 9 | Public Guardian and Trustee | 1.7% | 2.5% |
| 10 | Ministry of Finance | 2.3% | 2.2% |

Notes: In February 2012 the Ministry of Attorney General and Ministry of Public Safety and Solicitor General were combined to form the new Ministry of Justice. On last year's significant authorities list, these two ministries were #3 and #6, with a combined percentage of 11%.

Ministry of Health does not include Health Authorities, but if combined the total percentage of jurisdictional files would be 10.5%.

Files Closed

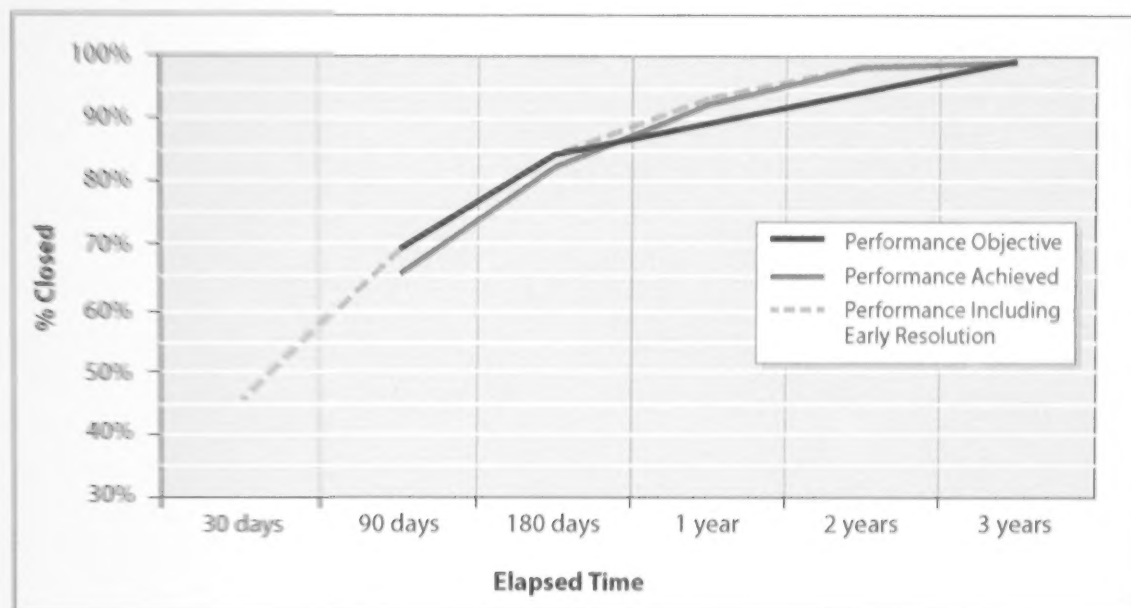


Breakdown by Closing Status

| | Matters Closed |
|-----------------------------|----------------|
| Assistance and/or Referral | 2,052 |
| Not an Authority | 480 |
| Declined (s.10, s.11(1)(a)) | 106 |
| Concluded (s.13) | 1,921 |
| Settled (s.14) | 489 |
| Findings Made (s.22, s.23) | 384 |
| Total Matters Closed | 5,432 |
| Total Files Closed* | 5,273 |

*Files closed may have one or more matters of administration identified, and each matter is closed separately. Therefore the number of matters closed during a period may be greater than the number of files closed. A file is considered closed when all of its matters of administration are closed.

Files Closed – Length of Time to Close



| | 2007/08 | | 2008/09 | | 2009/10* | | 2010/11* | | 2011/12* | |
|----------------------------------|---------|-------|---------|-------|----------|-------|----------|-------|----------|-------|
| Closed Within 30 Days | 923 | 47% | 707 | 40% | 853 | 37% | 639 | 38% | 517 | 35% |
| Including early resolution files | — | — | 856 | 44% | 1,159 | 45% | 926 | 46% | 773 | 45% |
| Closed Within 90 Days | 1,492 | 77% | 1,290 | 72% | 1,528 | 67% | 1,118 | 66% | 939 | 64% |
| Including early resolution files | — | — | 1,439 | 74% | 1,837 | 71% | 1,398 | 70% | 1,195 | 69% |
| Closed Within 180 Days | 1,730 | 89% | 1,565 | 88% | 1,901 | 83% | 1,411 | 83% | 1,232 | 83% |
| Including early resolution files | — | — | 1,714 | 88% | 2,210 | 85% | 1,694 | 85% | 1,488 | 86% |
| Closed Within 1 Year | 1,884 | 97% | 1,722 | 96% | 2,162 | 95% | 1,587 | 93% | 1,403 | 95% |
| Including early resolution files | — | — | 1,871 | 97% | 2,472 | 95% | 1,885 | 94% | 1,659 | 96% |
| Closed Within 2 Years | 1,941 | 99.5% | 1,777 | 99.4% | 2,261 | 99.0% | 1,683 | 98.9% | 1,463 | 99.1% |
| Including early resolution files | — | — | 1,926 | 99.4% | 2,571 | 99.1% | 1,984 | 99.1% | 1,719 | 99.2% |
| Closed Within 3 Years | 1,948 | 99.9% | 1,787 | 99.9% | 2,278 | 99.7% | 1,696 | 99.7% | 1,474 | 99.8% |
| Including early resolution files | — | — | 1,936 | 99.9% | 2,588 | 99.8% | 1,997 | 99.8% | 1,730 | 99.8% |

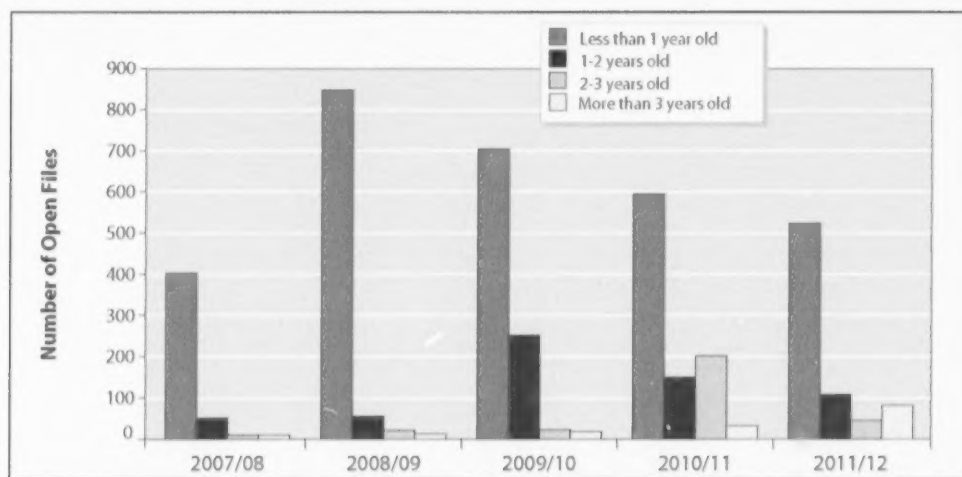
Performance Objectives**

70% closed within 90 days
 85% closed within 180 days
 90% closed within one year
 95% closed within two years
 100% closed within three years

* Elapsed time does not include time spent on the Files Awaiting Assignment list.

** These performance objectives apply to files closed by the investigative teams. Files closed at intake are not included in these numbers, nor are files associated with ongoing systemic investigations.

Open Files – Age of Files at Year End



| | 2007/08 | % | 2008/09 | % | 2009/10 | % | 2010/11 | % | 2011/12 | % |
|-------------------------|------------|------|------------|------|------------|------|------------|------|------------|------|
| Less Than 1 Year Old | 402 | ▶85% | 847 | ▶91% | 704 | ▶71% | 595 | ▶61% | 523 | ▶69% |
| 1-2 Years Old | 50 | | 55 | | 251 | | 150 | | 107 | |
| 2-3 Years Old | 10 | ▶15% | 21 | ▶9% | 22 | ▶29% | 202 | ▶39% | 45 | ▶31% |
| More than 3 years old | 9 | | 12 | | 18 | | 32 | | 81 | |
| Total Open Files | 471 | | 935 | | 995 | | 979 | | 756 | |

Authority Categories – Summary

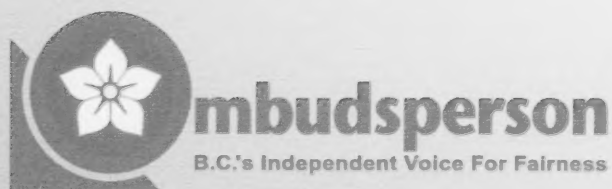
The Office of the Ombudsperson has jurisdiction over provincial public authorities. These have been grouped below into categories. A complete detailed list of authorities and files opened can be found at www.bcombudsperson.ca.

| Authority Categories by Section of the Schedule to the Ombudsperson Act | Open Files as of 01 Apr-2011 | Requests for Information or Assistance | Files Opened | Files Closed ¹ | | | | | | | | Open Files as of 31 Mar-2012 |
|---|---------------------------------|--|--------------|-------------------------------|------------------------|---------------------|--------------|---|-------------------------------------|-------------------------|-----------------------|---------------------------------|
| | | | | Assistance and/or Referral | Declined (s.10, 11) | Concluded (s.13) | Settled s.14 | Findings Not Substantiated (s.22) | Findings Substantiated (s.23) | Total Matters Closed | Total Files Closed | |
| Ministries | 358 | 652 | 2463 | 1034 | 91 | 981 | 295 | 174 | 2 ² | 2577 | 2506 | 315 |
| Commissions and Boards | 117 | 426 | 674 | 371 | 14 | 197 | 75 | 56 | 0 | 713 | 692 | 99 |
| Crown Corporations | 49 | 95 | 540 | 206 | 2 | 238 | 24 | 39 | 1 | 510 | 500 | 89 |
| Municipalities | 77 | 24 | 219 | 73 | 0 | 127 | 11 | 17 | 0 | 228 | 227 | 69 |
| Regional Districts | 16 | 6 | 73 | 25 | 1 | 37 | 6 | 7 | 0 | 76 | 73 | 16 |
| Islands Trust | 2 | 0 | 6 | 2 | 0 | 3 | 0 | 2 | 0 | 7 | 7 | 1 |
| Improvement Districts | 5 | 1 | 13 | 4 | 0 | 3 | 2 | 1 | 0 | 10 | 9 | 9 |
| Libraries | 1 | 0 | 3 | 0 | 0 | 1 | 0 | 1 | 0 | 2 | 2 | 2 |
| Parks Boards | 24 | 0 | 1 | 1 | 0 | 0 | 24 | 0 | 0 | 25 | 25 | 0 |
| Schools and School Boards | 13 | 1 | 63 | 26 | 2 | 24 | 2 | 3 | 0 | 57 | 56 | 20 |
| Universities | 9 | 4 | 20 | 10 | 0 | 11 | 3 | 2 | 0 | 26 | 26 | 3 |
| Colleges | 4 | 0 | 24 | 13 | 1 | 6 | 5 | 3 | 0 | 28 | 26 | 2 |
| Professional Associations | 31 | 161 | 136 | 82 | 1 | 39 | 8 | 9 | 0 | 139 | 139 | 28 |
| Health Authorities | 272 | 45 | 340 | 202 | 2 | 254 | 34 | 17 | 50 ³ | 559 | 510 | 102 |
| Totals | 978 | 1415 | 4575 | 2049 | 114 | 1921 | 489 | 331 | 53 | 4957 | 4798 | 755 |

¹ For investigation files, the number of files closed is not the same as the number of closings. Starting July 2003, we began closing each issue, or matter of administration identified on a file, separately. Each investigation file has one or many matters of administration. Therefore the number of matters closed during a period may be greater than the number of files closed during that period. A file closed is considered closed when all of its matters of administration are closed.

² The systemic investigation report *Best of Care (Part 2)* is recorded under one closing that includes all its findings and recommendations.

³ This includes the findings and recommendations in two systemic reports; *On Short Notice: An Investigation of Vancouver Island Health Authority's Process for Closing Cowichan Lodge* and *Honouring Commitments: An Investigation of Fraser Health Authority's Transfer of Seniors from Temporarily Funded Residential Care Beds*.



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